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Thursday  
December 10, 1987



# Federal Register

**Briefings on How To Use the Federal Register—**  
For information on briefings in Denver, CO, see  
announcement on the inside cover of this issue.



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## THE FEDERAL REGISTER

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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### DENVER, CO

- WHEN:** December 15; at 9 a.m.
- WHERE:** Room 239, Federal Building, 1961 Stout Street, Denver, CO.
- RESERVATIONS:** Call the Denver Federal Information Center, 303-844-6575



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# Presidential Documents

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The President

Proclamation 5749 of November 30, 1987

National Home Health Care Week, 1987

By the President of the United States of America

## A Proclamation

The comfort of familiar surroundings and the loving care and attention of family members often give an important measure of relief to patients recovering from illness or injury, including those on early release from hospitals or nursing homes. Many Americans who understand this and who decide to care for their loved ones at home find welcome assistance in occasional services offered by home health care providers.

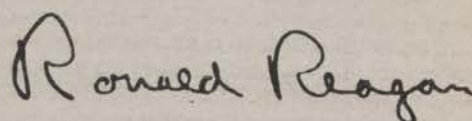
A variety of groups make such care available. Thousands of home health agencies—large and small, urban and rural, public and private, hospital-based and independent—provide nursing services; physical, speech, and occupational therapy; social services; and home health aide services. The dedication of these organizations and their thousands of employees and volunteers has eased the path to recovery for countless Americans.

The high-quality services of home health care providers give aged and disabled citizens an exceptional opportunity to take advantage of this Medicare-covered benefit and recuperate in their own homes, where they can most effectively draw upon the constant support and concern of their families. That strengthens family life and individual independence alike, and is good reason for all of us to celebrate National Home Health Care Week and to thank and salute the men and women who supply home health care.

The Congress, by Senate Joint Resolution 98, has designated the week beginning November 29, 1987, as "National Home Health Care Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning November 29, 1987, as National Home Health Care Week, and I call upon government officials, interested organizations and associations, and all Americans to observe this week with appropriate programs, ceremonies, and activities to acquaint themselves with home health care and to support these vital services to elderly and disabled people.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.



Presidential Documents

National Home Health Care Week 1987

By the President of the United States of America

A Proclamation

The President of the United States of America, in the first year of his second term, has the honor to proclaim the week beginning Monday, September 14, 1987, as National Home Health Care Week. This year's observance will focus attention on the vital role of home health care in the lives of our citizens, particularly the elderly and the disabled. Home health care is a critical link between the home and the health care system, providing essential services that enable individuals to live more independently and with dignity. The President expresses his appreciation for the dedication and commitment of the home health care professionals and volunteers who provide these services, and he encourages the public to support and participate in home health care programs.

The President also expresses his appreciation for the efforts of the home health care industry to improve the quality of care and to ensure that services are accessible to all who need them. He encourages the public to support the home health care industry by choosing home health care services when appropriate and by supporting policies that promote the development of a strong home health care system. The President also encourages the public to support the efforts of the home health care industry to improve the quality of care and to ensure that services are accessible to all who need them.

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James A. Baker



## Presidential Documents

Proclamation 5750 of December 5, 1987

### Wright Brothers Day, 1987

By the President of the United States of America

#### A Proclamation

On December 17, 1903, on the beaches of Kitty Hawk, North Carolina, Wilbur and Orville Wright ushered in the age of modern aviation with an accomplishment unprecedented in history—a manned flight in a powered, winged aircraft. Aviation has progressed much since that all-important first step; man has not only spanned the globe with air travel but has also reached into space, and Americans have set foot on the moon.

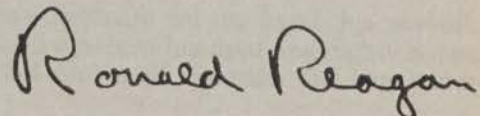
This year more than 450 million American passengers will use aircraft, the world's fastest and safest transportation. In the 84 years since the Wright Brothers' first flight, American aviation, in cooperation with the Federal government, has continued to improve the safety and the efficiency of air travel. Thanks to both industry and the Federal Aviation Administration, this effort goes on today.

On Wright Brothers Day we recall and revere not only the ability and the inventiveness of Wilbur and Orville Wright but also the unshakable conviction that led them into the skies and into history's pantheon of explorers, discoverers, and benefactors of mankind.

The Congress, by a joint resolution approved December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), has designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim December 17, 1987, as Wright Brothers Day, and I call upon the people of the United States to observe this day with appropriate ceremonies and activities, both to recall the achievements of the Wright Brothers and to stimulate aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.



Presidential Documents

Proclamation 2107 of December 2, 1907

Wright Brothers Day, 1907

By the President of the United States of America

A Proclamation

On December 17, 1903, on the shores of Kitty Hawk, North Carolina, Wright and Glider Pilot, achieved in the eyes of mankind a feat which no man had ever accomplished before. They demonstrated to the world that man could fly, and that the air was his domain. They showed to the world that the future of mankind lay in the air, and that the air was his domain.

It was a feat which no man had ever accomplished before. They demonstrated to the world that man could fly, and that the air was his domain. They showed to the world that the future of mankind lay in the air, and that the air was his domain.

On Wright Brothers Day, we recall with pride and joy the achievement of these two men, who have given to the world a new mode of transportation. We honor them for their courage, their perseverance, and their devotion to their country.

The Congress, by a joint resolution, designated December 17, 1907, as Wright Brothers Day, and requested the President to issue annually a proclamation designating the people of the United States to observe that day.

NOW, THEREFORE, I, ROBERT ROSS, President of the United States of America, do hereby proclaim December 17, 1907, as Wright Brothers Day, and request the people of the United States to observe that day with reverence and devotion, and to celebrate the anniversary of the day when the world was first shown that man could fly.

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of the Presidency at the City of Washington, this 21st day of December, 1907.

Robert Ross

THE PRESIDENT OF THE UNITED STATES  
BY \_\_\_\_\_  
SECRETARY OF STATE



## Presidential Documents

Proclamation 5751 of December 7, 1987

### National Pearl Harbor Remembrance Day, 1987

By the President of the United States of America

#### A Proclamation

On December 7, Americans everywhere commemorate the 46th anniversary of the morning in 1941 when our Armed Forces at Pearl Harbor, Hawaii, were subjected to a surprise aerial strike by the Imperial Japanese Navy. That attack killed 2,403 Americans and wounded 1,178 others—and caused our Nation to enter World War II.

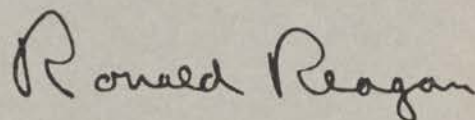
America was unprepared for war, but we quickly resolved to do what must be done in defense of our country. Knowing that in war there can be no substitute for victory, the American people summoned a great national effort in military strength and industrial activity. The sacrifices of our military personnel at Pearl Harbor became the prelude to those our brave fighting forces were to endure around the globe for the next three and one-half years. When the terrible conflict ceased and the peace was won, America's freedom remained intact and we had taken on a crucial role as the leader of the world's democracies and bulwark of international peace.

On December 7, America remembers much and resolves much. We remember Pearl Harbor's dead and wounded and its courageous survivors who fought that day and many other days as well. We remember too one of history's clearest lessons, that weakness and unpreparedness do not build peace but invite aggression. We remember that our freedom, purchased at so dear a price, can be taken from us. And we resolve that that shall never be. We resolve that our strength, our vigilance, and our devotion will forever keep America the land of the free and the home of the brave. We resolve that we will keep faith with those we have loved and lost. And we resolve that, always, we will remember Pearl Harbor.

The Congress, by Senate Joint Resolution 105, has designated December 7, 1987, as "National Pearl Harbor Remembrance Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim December 7, 1987, as National Pearl Harbor Remembrance Day, and I call upon the people of the United States to observe this solemn occasion with appropriate ceremonies and activities and to pledge eternal vigilance and strong resolve to defend our Nation and its allies from all future aggression.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of December, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.



Presidential Documents

Proclamation 3262 of December 7, 1947

National Pearl Harbor Remembrance Day, 1947

To the President of the United States of America

A Proclamation

On December 7, 1941, our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor. It was a day when our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor. It was a day when our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor.

On December 7, 1941, our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor. It was a day when our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor. It was a day when our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor.

On December 7, 1941, our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor. It was a day when our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor. It was a day when our Nation's attention was drawn to the anniversary of the attack on Pearl Harbor.

The Congress by Senate Joint Resolution 105 has designated December 7, 1947, as "National Pearl Harbor Remembrance Day," and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I ROBERT REAGAN, President of the United States of America, do hereby proclaim December 7, 1947, as National Pearl Harbor Remembrance Day, and I call upon the people of the United States to observe this day with appropriate exercises and activities and to place before them the significance of this day.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of December, in the year of our Lord one thousand nine hundred and forty seven, and of the Independence of the United States of America the two hundred and twenty second.

Robert Reagan

U.S. GOVERNMENT PRINTING OFFICE: 1947



# Rules and Regulations

Federal Register

Vol. 52, No. 237

Thursday, December 10, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 907 and 908

#### Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California; Revision of Administrative Rules and Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends procedures for issuing interest and late payment charges on handlers' overdue assessments, which are contained in the administrative rules and regulations of the California-Arizona navel and Valencia orange marketing orders. This action was recommended by the Navel and Valencia Orange Administrative Committees (NOAC/VOAC) to provide a more efficient and timely method of assessment collection.

**EFFECTIVE DATE:** January 11, 1988.

**FOR FURTHER INFORMATION CONTACT:** Jackie Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2522, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order Nos. 907 and 908 (7 CFR Parts 907 and 908), as amended, regulating the handling of navel and Valencia oranges, respectively, grown in Arizona and designated part of California. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act. This final rule has been reviewed under Executive Order 12291 and

Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of navel oranges and 115 handlers of Valencia oranges subject to regulation under the navel and Valencia orange marketing orders, and approximately 4,065 producers of navel oranges and 3,500 producers of Valencia oranges in their respective production areas. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having average annual gross revenues for the last three years of less than \$100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of California-Arizona navel and Valencia orange growers and handlers may be classified as small entities.

This action is based upon the recommendations and information submitted by the NOAC/VOAC and upon other available information. Interest and late payment charges have been authorized under the marketing orders since January 1985. The NOAC/VOAC recommended certain amendments to the respective rules and regulations issued under the marketing orders, which change the date when interest accrues and late payment charges apply to outstanding handler assessment accounts. The change for both programs is designed to encourage handlers to pay overdue assessments promptly. There is no change in the current rate of interest charged to overdue assessments or to the one-time late payment charge.

Sections 907.41 and 908.41 of the respective orders authorize the collection of interest and late payment charges from handlers on overdue assessments. Sections 907.106 and 908.106, which contain provisions for an interest charge and a late payment charge on late assessments, were added to the administrative rules and regulations of the respective orders on May 5, 1986 [51 FR 11421].

The rules currently provide that an interest charge of 1 1/2 percent per month be levied on any assessment not received within 30 days of the date such assessment was invoiced to the handler. Also provided for is a one-time late payment charge of 5 percent which may be charged on any unpaid assessments, plus accrued interest, not received at the NOAC/VOAC's office within 60 days of the date such assessment was first invoiced to the handler.

The amendments to §§ 907.106 and 908.106 change the date when interest accrues and late payment charges apply to outstanding handler assessment accounts. The amendments will apply interest charges at the end of the month the assessment is due and a late payment charge at the end of the following month, if an assessment is first invoiced to handlers prior to and including the 15th of the month. If a handler is first invoiced after the 15th of the month, interest will be charged if the assessment is not paid at the NOAC/VOAC's office before the end of the following month and the late payment charge will apply the month after that.

Notice of this action was published in the Federal Register [52 FR 30168] on August 13, 1987. Written comments were invited from interested persons until September 14, 1987. Two comments were received from handlers. Both commenters objected to the proposed changes, stating that no problem with the current system had been identified and that the proposed system would provide opportunity for abuse by NOAC/VOAC management in choosing billing dates for "preferred" or "favored" handlers over "unfavored" handlers. The commenters stated that unfavored handlers could be billed on the 15th of a month and favored handlers billed on the 16th, thus providing favored handlers with an additional 30 days in which to pay their assessments, interest free. Commenters also stated that the new procedure could



require handlers to pay assessments in as little as 10 days from receipt of invoice which could disadvantage smaller handlers. One commenter also stated that the proposed rulemaking failed to specify or identify information explaining the need for the proposed changes.

The notice and this final rule clearly indicate that this action is a minor adjustment in billing practices, designed to correct problems experienced by the NOAC/VOAC which have resulted in complicated recordkeeping and handler assessment billing procedures. The comments that the new procedures would result in abuse by NOAC/VOAC management are without merit. In accordance with the NOAC/VOAC's current practice, all handlers are billed on the same date each month by the NOAC/VOAC's computerized billing system. Also, each committee is audited each year and unacceptable billing practices would be revealed therein or by other routine U.S. Department of Agriculture oversight activities.

The amount of time handlers will have to pay their assessments from the date they receive their invoice may be shortened somewhat, but generally by no more than one week since invoices are usually sent out shortly after the first day of the month. In addition, handlers are aware of the established assessment rate and their assessable shipments each month. The NOAC/VOAC computes the monthly assessment from forms submitted by the handler. Thus, the assessment amount owed by the handler is known to the handler prior to receipt of the invoice. Handlers of all sizes pay a uniform assessment rate based on their monthly shipment levels. Thus, smaller handlers will not be disadvantaged.

This action provides a more timely and efficient method of assessment collection for the NOAC/VOAC while encouraging those handlers, who may have in the past or may in the future not pay assessments in a timely manner, to do so. The basis for the changes to the regulations were discussed in the proposed rulemaking and in this final rule.

Based on available information, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the comments received, and other available information, it is found that the amendment of §§ 907.106 and 908.106, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Parts 907 and 908

Marketing agreements and orders, California, Arizona, Oranges, Navel, Valencia.

For the reasons set forth in the preamble, 7 CFR Parts 907 and 908 are amended as follows:

1. The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

#### PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Section 907.106 is revised to read as follows:

##### Subpart—Rules and Regulations

##### § 907.106 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office before the end of the month in which such assessment was first invoiced to the handler: *Provided*, That if an assessment is first invoiced later than the 15th of the month, no interest shall be charged if such assessment is paid at the committee's office before the end of the month following the month in which the assessment was first invoiced to the handler.

(b) In addition to the interest charge specified in paragraph (a) above, there shall be a late payment charge of 5 percent on any assessment plus accrued interest not received at the committee's office by the end of the month following the month in which the assessment was first invoiced to the handler: *Provided*, That if an assessment is first invoiced later than the 15th of the month, there will be no late payment charge if the assessment and accrued interest are paid at the committee's office before the end of the second month following the month in which the assessment was first invoiced to the handler.

#### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

3. Section 908.106 is revised to read as follows:

##### Subpart—Rules and Regulations

##### § 908.106 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the

committee's office before the end of the month not received at the committee's office before the end of the month in which such assessment was first invoiced to the handler: *Provided*, That if an assessment is first invoiced later than the 15th of the month, no interest shall be charged if such assessment is paid at the committee's office before the end of the month following the month in which the assessment was first invoiced to the handler.

(b) In addition to the interest charge specified in paragraph (a) above, there shall be a late payment charge of 5 percent on any assessment plus accrued interest not received at the committee's office by the end of the month following the month in which the assessment was first invoiced to the handler: *Provided*, That if an assessment is first invoiced later than the 15th of the month, there will be no late payment charge if the assessment and accrued interest are paid at the committee's office before the end of the second month following the month in which the assessment was first invoiced to the handler.

Dated: December 3, 1987.

Robert C. Keeney,  
Deputy Director, Fruit and Vegetable  
Division.

[FR Doc. 87-28247 Filed 12-9-87; 8:45 am]  
BILLING CODE 3410-02-M

#### DEPARTMENT OF JUSTICE

##### Immigration and Naturalization Service

##### 8 CFR Part 316a

[INS Number 1057-87]

##### Residence, Physical Presence and Absence; Recognized American Institutes

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

**SUMMARY:** This rule adds African Medical and Research Foundation (AMREF-USA) to the list of recognized American institutes conducting research abroad. This rule will allow employees of African Medical and Research Foundation (AMREF-USA) who are active in scientific research on behalf of the institute to be eligible for constructive residence.

**EFFECTIVE DATE:** December 10, 1987.

**FOR FURTHER INFORMATION CONTACT:** Raymond Jaroneski, Jr., Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW.,



Washington, DC 20536, Telephone: (202) 633-5014.

**SUPPLEMENTARY INFORMATION:** Section 316(b) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1427(b) allows for certain absences abroad by lawful permanent residents of the United States to preserve residence and be counted towards the residence requirements for naturalization. 8 CFR 316a.2 lists American institutions of research that have been recognized by the Attorney General to qualify for the constructive resident benefit. Absences abroad in the employment of these institutions will be counted as constructive residence in establishing the residence for naturalization, provided all conditions of 8 U.S.C. 1427(b) which lists the requirements for naturalization, are satisfied.

The addition of African Medical and Research Foundation (AMREF-USA) to the list of institutions conducting research abroad will enable alien employees and alien spouses of United States citizen employees of African Medical and Research Foundation (AMREF-USA) to be deemed eligible for the benefits of sections 316(b) and 319(b), if regularly stationed abroad in the conduct of research.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely amends an existing listing. In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not impact on a substantial number of small entities. This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(b) of E.O. 12291.

#### List of Subjects in 8 CFR Part 316a

Citizenship and naturalization, Immigration and Nationality Act, Residence.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

#### PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

1. The authority for 8 CFR Part 316a is revised to read as follows:

Authority: 8 U.S.C. 1103 and 1427, 1428, 1443.

##### § 316a.2 [Amended]

2. In § 316a.2, American institutions of research, the listing of organizations is amended by adding in alphabetical sequence "African Medical and Research Foundation (AMREF-USA)".

Dated: December 7, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87-28344 Filed 12-9-87; 8:45 am]

BILLING CODE 4410-10-M

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. 83-ASW-34; Amdt. 39-5773]

##### Airworthiness Directives; Boeing Helicopter Co. (Boeing Vertol) Model 234 Series Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) applicable to Boeing Helicopter Company Model 234 series helicopters which supersedes a previous AD. The new AD requires the removal from further service of two designs of the aft landing gear spindle and establishes a retirement time for two additional, improved design spindles. The AD is needed to prevent failure of an aft landing gear spindle which may result in a hazardous landing.

**EFFECTIVE DATE:** December 15, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1987.

**Compliance:** Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

**ADDRESSES:** The applicable service information may be obtained from Boeing Helicopter Company, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19142. A copy of the documents is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

**FOR FURTHER INFORMATION CONTACT:** Joseph E. Chastil, ANE-172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone number (516) 791-6221.

**SUPPLEMENTARY INFORMATION:** AD 83-17-02, Amdt. 39-4708 (48 FR 37924; August 22, 1983), was issued due to reports of fatigue cracking of five aft landing gear spindles and a complete separation of one spindle/landing gear assembly from a Boeing Vertol Model

234 helicopter. AD 83-17-02 currently requires initial and repetitive inspections of the spindles at 200-hour intervals. Spindles found cracked must be removed from service prior to further flight. AD 83-17-02 applies to Part Number (P/N) 114L2322, and no specific spindle is identified since only one design, -5, existed when the AD was issued. Subsequently, -8, -9, and -11 product improvement spindle designs were developed and approved. The -8 design was never manufactured, but it had an increased radius to reduce stress levels in a critical load area. The -11 spindle was a further product improvement with an increase in a radius over the -8 spindle.

Subsequently, the -11 spindle is reported to have failed in service below its mandatory retirement life, and a new retirement time of 1,200 hours was established because of this failure. Subsequently, a -9 spindle was designed with the above-mentioned improvements but with a much smaller inner diameter; i.e., increased wall thickness. Concurrently, a new ground loads strain survey was conducted which showed higher than expected stresses, but well within the improved -9 spindle strength capability. All the -5, -8, and -11 spindles presently are out of civil service, but the -11 spindles are used on the military counterpart Model CH47 series helicopters and may be used on the Model 234.

Therefore, the FAA is superseding AD 83-17-02, Amdt. 39-4708, with a new AD that requires -5 and -8 spindles to be removed from service within 25 hours' time in service on Boeing Helicopter Model 234 series helicopters. Further, the new AD requires a retirement time of 1,200 hours' time in service for the -11 spindle and a retirement time of 3,500 hours for the -9 spindle. The 1,200-hour retirement time is based on a conservative calculation of ground taxi-to-flight time ratio. For the improved -9 spindle, the retirement time of 3,500 hours is based on the latest ground loads survey. Failure of an aft landing gear spindle may result in a hazardous landing.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with



respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. By adding the following new AD:

**Boeing Helicopter Company (Boeing Vertol):**  
Applies to Boeing Helicopter Model 234 series helicopters certificated in any category.

Compliance is required as indicated, unless already accomplished.

To prevent possible hazards in landing associated with a cracked aft landing gear spindle P/N 114L2322-5, -8, -9, or -11, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD or before the accumulation of 1,200 hours' time in service, whichever comes later, remove from service aft landing gear spindles P/N's 114L2322-5 and -8 and replace with spindle P/N 114L2322-9 or -11. Removal and installation shall be accomplished in accordance with Boeing Vertol Service Bulletin No. 234-32-1009, dated February 23, 1987.

(b) Remove from service spindle P/N 11402322-11 prior to the accumulation of 1,200 hours' time in service and spindle P/N 114L2322-9 prior to the accumulation of 3,500 hours' time in service.

(c) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, FAA, New

England Region, may adjust the compliance times specified in this AD.

The removal or installation of spindles shall be done in accordance with Boeing Vertol Service Bulletin No. 234-32-1009, dated February 23, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Helicopter Company, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19141. These documents may be examined at the Office of the Regional Counsel, FAA, Southwest Region, 440 Blue Mound Road, Fort Worth, Texas, or the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

This amendment supersedes AD 83-17-02, Amendment 39-4708.

This amendment becomes effective December 15, 1987.

Issued in Fort Worth, Texas, on October 30, 1987.

**Don P. Watson,**

*Acting Director, Southwest Region.*

[FR Doc. 87-28268 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 87-ASO-16]

#### Alteration of Control Zone; Augusta, GA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment will delete a control zone arrival extension northwest of the Daniel Field Airport. The Augusta, Georgia, VORTAC, upon which this extension was predicated, has been decommissioned and was subsequently established at Colliers, South Carolina.

**EFFECTIVE DATE:** 0901 UTC, March 10, 1988.

**FOR FURTHER INFORMATION CONTACT:** Ronald T. Niklasson, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

#### SUPPLEMENTARY INFORMATION:

##### History

This amendment to Part 71 of the Federal Aviation Regulations will delete the control zone extension northwest of the Daniel Field Airport. The Augusta, Georgia, VORTAC, upon which this extension was predicated, has been decommissioned. Since this change reduces the burden on the public and is so minor in nature, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary. Section 71.171 of Part 71 of

the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

#### The Rule

This amendment to Part 71 of the Federal Aviation Regulations will delete a control zone extension northwest of the Daniel Field Airport which was based upon a navigational aid which no longer exists.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Aviation Safety, Control Zone.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

#### PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

#### § 71.171 [Amended]

2. Section 71.171 is amended as follows:

##### Augusta, GA [Amended]

The words " \* \* "; within 2 miles each side of Augusta VORTAC 135° radial, extending from the 5-mile radius zone to 2 miles southeast of the VORTAC \* \* " are deleted.

Issued in East Point, Georgia, on November 25, 1987.

**William D. Wood,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 87-28266 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M



**14 CFR Part 71****[Airspace Docket No. 87-ACE-11]****Designation of Transition Area;  
Grinnell, IA****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

**SUMMARY:** The nature of this Federal action is to designate a 700-foot transition area at Grinnell, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Grinnell, Iowa, Airport, utilizing the Newton, Iowa, VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action changes the airport status from VFR to IFR.

**EFFECTIVE DATE:** 0901 UTC, May 5, 1988.**FOR FURTHER INFORMATION CONTACT:**

Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

**SUPPLEMENTARY INFORMATION:** To enhance airport usage, an instrument approach procedure is being developed for the Grinnell, Iowa, Airport, utilizing the Newton VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Grinnell, Iowa, at or above 700 feet above the ground within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action changes the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

**Discussion of Comments**

On October 7, 1987, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Grinnell, Iowa (52 FR 37472). Interested persons were invited to participate in this

rulemaking proceeding by submitting written comments on the proposal to the FAA. No responses were received as a result of the Notice of Proposed Rulemaking.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

**Adoption of the Amendment****PART 71—[AMENDED]**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

**§ 71.181 [Amended]**

2. By amending § 71.181 as follows:

**Grinnell, Iowa [New]**

That airspace extending upward from 700 feet above surface within a 5-mile radius of the Grinnell Airport (Latitude 41°42'18" N, Longitude 92°43'45" W); and within 2.5 miles each side of the 105° radial from the Newton VORTAC, extending from the 5-mile radius area to 26 miles east of the VORTAC.

This amendment becomes effective at 0901 UTC, May 5, 1988.

Issued in Kansas City, Missouri, on November 27, 1987.

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-28270 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71****[Airspace Docket No. 87-ASW-21]****Removal of Transition Area; Jena, LA****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

**SUMMARY:** This amendment will remove the transition area at Jena, LA. This amendment is necessary since the proponent of a proposed nonfederal nondirectional radio beacon (NDB) has notified the FAA that the NDB will not be installed at the Jena Airport, Jena, LA, as previously planned. Subsequent with this amendment is the cancellation of the standard instrument approach procedure (SIAP) to the Jena Airport. The intended effect of this amendment is to release that controlled airspace no longer required for aircraft executing the SIAP to the Jena Airport. Independent of, but coincident with, this amendment is the changing of the airport status from instrument flight rules (IFR) to visual flight rules (VFR).

**EFFECTIVE DATE:** 0901 UTC, March 10, 1988.**FOR FURTHER INFORMATION CONTACT:**

Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

**SUPPLEMENTARY INFORMATION:****History**

On June 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by removing the transition area at Jena, LA (52-FR-24305).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations removes the transition area at Jena, LA. This amendment is necessary since the



proponent of a proposed NDB to be located at the Jena Airport, Jena, LA, notified the FAA that said NDB would not be installed as previously planned. Subsequent to this notification was the cancellation of the SIAP to the Jena Airport. The intended effect of this amendment is to return that controlled airspace no longer required by aircraft executing the SIAP to the Jena Airport. Independent of, but coincident with, this amendment is the changing of the airport status from IFR to VFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Aviation Safety, Transition areas.

#### Adoption of the Amendment

#### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

#### § 71.181 [Amended]

2. Section 71.181 is amended as follows:

#### Jena, LA [Removed]

Issued in Fort Worth, TX, on November 20, 1987.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-28269 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 87-ASW-27]

#### Amendment of Control Zone and Transition Area; Temple, TX

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule will amend both the control zone and transition area located at Temple, TX. This amendment is necessary since a new standard instrument approach procedure (SIAP) to the Draughon-Miller Airport, Temple, TX, has been developed utilizing the Temple Very High Frequency Omnidirectional Radio Range (VOR). The intended effect of this amendment is to provide additional controlled airspace for aircraft executing the new SIAP to the Draughon-Miller Airport.

**EFFECTIVE DATE:** 0901 UTC, March 10, 1988.

#### FOR FURTHER INFORMATION CONTACT:

Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

#### SUPPLEMENTARY INFORMATION:

##### History

On June 16, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending both the control zone and transition area located at Temple, TX (52 FR 24306).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6C, dated January 2, 1987.

##### The Rule

This amendment to Part 71 of the Federal Aviation Regulations will amend both the control zone and transition area located at Temple, TX. The development of a new SIAP to the Draughon-Miller Airport, Temple, TX, using the Temple VOR has necessitated this amendment. This will result in additional controlled airspace south of the airport. The intended effect of this

amendment is to ensure segregation between aircraft flying the new SIAP under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

#### PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

#### § 71.171 [Amended]

2. Section 71.171 is amended as follows:

##### Temple, TX [Amended]

By deleting: and 1.5 miles each side of the south localizer course extending from the 5-mile radius area to 6 miles south of the airport.

And adding: and within 4 miles each side of the 166° radial of the Temple VOR extending from the 5-mile radius area to 13.5 miles south of the airport. (Note: Last 2 sentences remain unchanged)

#### § 71.181 [Amended]

3. Section 71.181 is amended as follows:

##### Temple, TX [Amended]

By deleting: and within 3 miles each side of the south localizer course extending from the 7-mile radius area to 17 miles south of the airport.

And adding: and within 4.5 miles each side of the 166° radial of the Temple VOR



extending from the 7-mile radius area to 17 miles south of the airport.

Issued in Fort Worth, TX, on November 20, 1987.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-28273 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 97

[Docket No. 25466; Amdt. No. 1362]

#### Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

#### For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

#### For Purchase—

Individual SIAP copies may be obtained from: 1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

#### By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

#### FOR FURTHER INFORMATION CONTACT:

Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly

to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on November 27, 1987.

Robert L. Goodrich,

Director of Flight Standards.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

#### PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

**Authority:** 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2).



2. By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/ RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

... *Effective March 10, 1988*

Eastman, GA—Eastman-Dodge County, NDB RWY 2

... *Effective January 14, 1988*

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Fld, RADAR-1, Amdt. 7

Birmingham, AL—Birmingham Muni, LOC RWY 23, Amdt. 4

Birmingham, AL—Birmingham Muni, NDB RWY 5, Amdt. 29

Birmingham, AL—Birmingham Muni, NDB RWY 23, Amdt. 15

Birmingham, AL—Birmingham Muni, ILS RWY 5, Amdt. 37

Birmingham, AL—Birmingham Muni, RADAR-1, Amdt. 17

Crestview, FL—Bob Sikes, VOR-A, Amdt. 9

Crestview, FL—Bob Sikes, LOC RWY 17, Amdt. 1

Crestview, FL—Bob Sikes, NDB RWY 17, Amdt. 1

Miami, FL—Miami Intl, NDB RWY 9R, Amdt. 1, CANCELLED

Cordele, GA—Crisp County-Cordele, RNAV RWY 9, Amdt. 2, CANCELLED

Waycross, GA—Waycross-Ware County, VDR-A, Amdt. 7

Waycross, GA—Waycross-Ware County, LOC RWY 18, Amdt. 3

Waycross, GA—Waycross-Ware County, RNAV RWY 18, Amdt. 3

Cairo, IL—Cairo, NDB RWY 14, Orig.

Cairo, IL—Cairo, NDB RWY 20, Amdt. 6, CANCELLED

Vinton, IA—Vinton Veterans Meml, NDB RWY 16, Amdt. 3, CANCELLED

Marshfield, MA—Marshfield, NDB RWY 6, Amdt. 2

St. Louis, MO—Lambert/St. Louis Intl, VOR or TACAN RWY 12L, Amdt. 11

St. Louis, MO—Lambert/St. Louis Intl, ILS RWY 12L, Amdt. 1

Albuquerque, NM—Double Eagle II, ILS RWY RWY 22, Orig.

... *Effective November 19, 1987*

Rochester, NY—Rochester-Monroe County, NDB RWY 28, Amdt. 20

Rochester, NY—Rochester-Monroe County, ILS RWY 4, Amdt. 13

Rochester, NY—Rochester-Monroe County, ILS RWY 28, Amdt. 27

Cleveland, OH—Cleveland-Hopkins Intl, RADAR-1, Amdt. 30

Philadelphia, PA—Philadelphia Intl, ILS-1 RWY 9R, Amdt. 6

Philadelphia, PA—Philadelphia Intl, ILS-1 RWY 17, Amdt. 2

[FR Doc. 87-28274 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 176

[Docket No. 83F-0064]

#### Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations by consolidating the listings for polyamine-epichlorohydrin for use as a wet-strength agent and retention aid into a single listing and by adding a new method of producing this resin for these uses. This action responds to a petition filed by Monsanto Co.

**DATES:** Effective December 10, 1987. Objections by January 11, 1988.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *Federal Register* of March 29, 1983 (48 FR 13099), FDA announced that a petition (FAP 2B3606) had been filed by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63166, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to consolidate the current listings for polyamine-epichlorohydrin wet-strength resins. Subsequently, FDA published an amended notice of filing in the *Federal Register* of May 8, 1986 (51 FR 17098), which specifically described the three current listings for polyamine-epichlorohydrin wet-strength resins that would be consolidated and made clear that the petition requested that the use of self-condensation products of 95 percent by weight C<sub>4</sub> to C<sub>6</sub> aliphatic diamines, and the direct reaction of these diamines and/or their self-condensation products with epichlorohydrin, be included in the new listing. The new single revised listing was included in the amended notice of filing.

FDA has reviewed the data and information in the petition and other relevant information. The agency finds

that the inclusion of C<sub>4</sub> to C<sub>6</sub> aliphatic diamines and their self-condensation products in the revised regulation incorporates the previously listed use of hexamethylenediamine and bis(hexamethylene) triamine and higher homologues as starting materials in the manufacture of the resin. Therefore, it is not necessary to list hexamethylene and bis(hexamethylene) triamine and higher homologues in the revised regulation.

FDA has also reviewed the safety of both polyamine-epichlorohydrin resin and the starting materials used to manufacture this additive. Although polyamine-epichlorohydrin resin has not been found to cause cancer, it may contain minute amounts of epichlorohydrin and 1,2-dichloroethane as byproducts of its production. These chemicals have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as epichlorohydrin and 1,2-dichloroethane, are commonly found as contaminants in chemical products, including food additives.

#### I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer of Delaney clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve a use of an additive that contained or was suspected of containing even a minor amount of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience



with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the *Federal Register* of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer but that contains a carcinogenic impurity may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott v. FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

## II. Safety of Petitioned Use

FDA estimates that the revised listing for polyamine-epichlorohydrin resin proposed in this petition will result in extremely low levels of exposure to this additive.

The agency calculated the estimated daily intake of the polyamine-epichlorohydrin resin based on several factors, including the migration of the additive under the most severe intended use conditions and the probable concentration of the additive in the daily diet from food-contact articles. The estimated daily intake for the additive is 0.2 milligram per person per day for a 60-kilogram person.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such a low level of exposure (Refs. 1 and 2), and the agency has not required such testing in this case. However, the petitioner did submit data from an acute toxicity test in the rat and subchronic tests in the dog and rat. No adverse effects were reported in these studies.

As stated above, polyamine-epichlorohydrin water soluble

thermosetting resin may contain epichlorohydrin and 1,2-dichloroethane, substances that have been shown to cause cancer in test animals. These impurities may be present as a result of the manufacturing procedures used to produce polyamine-epichlorohydrin resin. Because the additive has not been shown to cause cancer, however, the anticancer clause does not apply to it.

FDA has evaluated the safety of the resin under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive. Based on this evaluation, the agency has concluded that the resin is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that it has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities epichlorohydrin and 1,2-dichloroethane has two aspects: (1) Assessment of the worst case exposure to the impurities from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

### A. Epichlorohydrin

Based on the fraction of the daily diet that may be in contact with surfaces containing polyamine-epichlorohydrin resin, as well as the level of epichlorohydrin that may be present in the additive, FDA estimated the hypothetical worst case exposure to epichlorohydrin from the uses of polyamine-epichlorohydrin water soluble thermosetting resin in paper and paperboard to be 0.15 microgram per person per day (Ref. 3). The agency used data from a Japanese carcinogenesis bioassay (Ref. 4) on epichlorohydrin fed to rats in their drinking water to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of the resin. The results of the bioassay demonstrated that epichlorohydrin was carcinogenic for rats under the conditions of the study. The test material caused significantly increased incidences of stomach papillomas and carcinomas in the rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the

findings of carcinogenicity were supported by this information on epichlorohydrin. The committee further concluded that an estimate of the upper bound limit of lifetime human risk from potential exposure to epichlorohydrin stemming from the proposed use of the resin could be calculated from the bioassay.

Based on the worst case exposure of 0.15 microgram per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to epichlorohydrin from the use of polyamine-epichlorohydrin water-soluble thermosetting resin is  $6.7 \times 10^{-9}$  or less than 1 in 150 million (Ref. 5). Because of numerous conservatism in the exposure estimate, lifetime-averaged individual exposure to epichlorohydrin is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to epichlorohydrin that results from the use of the polyamine-epichlorohydrin resin.

### B. 1,2-Dichloroethane

Based on the fraction of the daily diet that may be in contact with surfaces containing polyamine-epichlorohydrin resin, as well as the level of 1,2-dichloroethane that may be present in the resin, FDA estimated the hypothetical worst case exposure to 1,2-dichloroethane from the regulated uses of polyamine-epichlorohydrin water-soluble thermosetting resin in paper and paperboard to be 0.15 microgram per person per day. The agency used data from a National Cancer Institute carcinogenesis bioassay (Ref. 6) on 1,2-dichloroethane fed to rats to estimate the upper bound level of lifetime human risk from this exposure. The results of the bioassay on 1,2-dichloroethane indicated that the material was carcinogenic for rats under the conditions of the study. The test material caused significantly increased incidences of carcinomas at multiple sites in the rats, which included the stomach, mammary gland, and circulatory system.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that this information on 1,2-dichloroethane supported the findings of carcinogenicity. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to this chemical stemming from the proposed



use of the polyamine-epichlorohydrin resin could be calculated from the bioassay.

Based on a worst case exposure of 0.15 microgram per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to 1,2-dichloroethane from the use of polyamine-epichlorohydrin resin is  $2.7 \times 10^{-8}$  or less than 1 in 37 million (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure to this constituent is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,2-dichloroethane that results from the uses of polyamine-epichlorohydrin resin.

#### C. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of epichlorohydrin and 1,2-dichloroethane in the food additive. The agency finds that specifications are not necessary for the following reasons: (1) Because the trace amounts of epichlorohydrin and 1,2-dichloroethane that might be present in the additive can be expected to be virtually eliminated from the paper during subsequent paper processing operations and by the heat during drying steps, the agency would not expect these impurities to become components of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst case assumptions, is very low, less than 1 in 150 million for epichlorohydrin and less than 1 in 37 million for 1,2-dichloroethane.

#### D. Conclusion on Safety

FDA has evaluated the available toxicity data and the exposure calculation for the resin and has found it to be safe and effective for the intended use based upon the extremely low levels of exposure to the resin and upon evaluation of the data furnished in the petition.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As

provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the amended Notice of Filing for FAP 2B3606 (May 8, 1986; 51 FR 17098). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment, and that an environmental impact statement is not required.

#### Objections

Any person who will be adversely affected by this regulation may at any time on or before January 11, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs" in "Food Safety: Where Are We?" Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.
2. Kokoski, C. J., "Regulatory Food Additive

Toxicology" presented at the Second International Conference on Safety Evaluation and Regulation of Chemicals, Cambridge, MA, October 24, 1983.

3. Memorandum dated January 5, 1987, from Regulatory Food Chemistry Branch to Indirect Additives Branch, "Revised Exposure Estimate for 1,2-Dichloroethane & Epichlorohydrin."

4. Konishi, Y., et al., "Forestomach Tumors Induced by Orally Administered Epichlorohydrin in Male Wistar Rats," *Gann*, 71:922-923, 1980.

5. Memorandum dated May 8, 1987, from Quantitative Risk Assessment Committee to Dr. W. Gary Flamm, "Epichlorohydrin and 1,2-Dichloroethane in Polyamine-Epichlorohydrin Resins."

6. "Bioassay of 1,2-Dichloroethane for Possible Carcinogenicity," National Cancer Institute, NTP Technical Report No. 55, 1978.

#### List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 176 is amended as follows:

#### PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 176.170 is amended in paragraph (a)(5) by removing the entries for "Polyamine-epichlorohydrin resin produced by the reaction of bis-(hexamethylene)triamine and higher homologues \* \* \*," "Polyamine-epichlorohydrin water soluble thermosetting resin produced by reacting an aliphatic diamine mixture containing not less than 95 percent of  $C_4$  to  $C_6$  diamines with 1,2-dichloroethane \* \* \*," and "Polyamine-epichlorohydrin water soluble thermosetting resin prepared by reacting hexamethylenediamine with 1,2-dichloroethane \* \* \*" and by alphabetically inserting a new entry to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

- \* \* \* \* \*
- (a) \* \* \*
- (5) \* \* \*



List of substances	Limitations
<p>Polyamine-epichlorohydrin water-soluble thermosetting resin produced by reacting epichlorohydrin with: (i) polyamines comprising at least 95 percent by weight C<sub>4</sub> to α aliphatic diamines and/or their self-condensation products, and/or (ii) prepolymers produced by reacting 1,2-dichloroethane with the polyamines in (i). The finished resin has a nitrogen content of 5.0 to 9.0 percent, a chlorine content of 18.0 to 35.0 percent on a dry basis, and a minimum viscosity, in a 25 percent by weight aqueous solution, of 50 centipoises at 20 °C (68 °F), as determined by Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).</p>	<p>For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.</p>

Dated: December 3, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-28292 Filed 12-9-87; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 54 and 602

[T.D. 8165]

#### Excise Tax on Excess Distributions From Retirement Plans and OMB Control Numbers Under Paperwork Reduction Act

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations relating to excess distributions from qualified plans, individual retirement plans, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts. Changes to the applicable law were made by the Tax Reform Act of 1986. These regulations will affect administrators of, participants in, and beneficiaries of qualified pension, etc. plans; institutions that sponsor and individuals who administer individual retirement plans, individuals who use individual retirement plans and simplified employee pensions for retirement income and beneficiaries of individual retirement plans; and employees for whom amounts are contributed to section 403(b) annuity contracts, custodial accounts, or retirement income accounts and

beneficiaries of such contracts and accounts. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations for the notice of proposed rulemaking that appears in the Proposed Rules Section of this issue of the Federal Register.

**DATES:** The regulations generally apply to calendar years beginning after December 31, 1986, except as otherwise specified in the Act.

**FOR FURTHER INFORMATION CONTACT:** Marjorie Hoffman of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3903) (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document amends the Pension Excise Tax Regulations (26 CFR Part 54) to provide temporary rules under section 4981A of the Internal Revenue Code of 1986. The temporary regulations reflect the addition of section 4981A to the Code by section 1133 of the Tax Reform Act of 1986 (1986 Act) (100 Stat. 2481).

##### Description of Excess Distribution Rules Overview

The 1986 Act provides for a new excise tax under section 4981A on excess distributions from qualified retirement plans and tax-sheltered annuities (qualified employer plans) and individual retirement accounts (IRAs).

To the extent that during any calendar year annual distributions for an individual from qualified employer plans and IRAs exceed a threshold amount, the 1986 Act generally imposes an excise tax equal to 15 percent of this excess. If the individual is also liable for the 10-percent tax on early distributions under section 72(t) (also added by the 1986 Act), this new excise tax on the excess distributions may be reduced by the 10-percent income tax on early distributions. Not every distribution from these plans and IRAs is subject to the 15-percent excise tax. The provision allows reduction for specific itemized exceptions and also allows a reduction for pre-existing accrued benefits as of August 1, 1986. These reductions are discussed below. The 1986 Act also imposes an excise tax equal to 15 percent of the decedent's benefits that are held under qualified employer plans and IRAs on the date of death. This excise tax on death is treated as an additional tax imposed under the estate tax provisions. In general, this excise

tax is an additional estate tax and the calculation of this excise tax is independent of the calculation of the estate tax owed upon death.

##### Tax on Lifetime Distributions

Section 4981A of the Internal Revenue Code (Code) imposes an excise tax on an individual who receives "excess distributions" from qualified employer plans and IRAs. Excess distributions are defined in section 4981A(c)(1) as the total amount of distributions during any calendar year to the extent that such amounts exceed either \$112,500 (adjusted for cost-of-living increases (COLAs)) or \$150,000. The plan or IRA need not be tax-qualified at the time of the distributions if it previously received the benefits of tax-qualified status. Not all distributions from these plans or IRAs are subject to the excise tax. Section 4981A lists various exclusions. Among these exclusions are distributions made after the individual's death (these distributions are subject to the excise tax on death); payments made to a spouse or former spouse pursuant to a qualified domestic relations order that are includable in the income of such spouse; tax-free distributions attributable to the individual's investment under the plan or IRA (e.g., after-tax employee contributions, loan amounts previously includable in the individual's income, etc.); and distributions to the individual that are not includable in gross income because the individual makes a qualifying rollover (e.g., a rollover to an IRA or qualified retirement plan permitted by Code sections 402(a)(5), 402(a)(4), 403(b)(8), 405(d)(3) or 408(d)(3)). Additionally, the regulations provide for exclusion of medical benefits and health coverage provided under an arrangement described in section 401(h) that are excludable from income under section 104, 105, or 106. Distributions to a spouse, as described above, are distributions to such spouse for purposes of calculating the spouse's tax under this provision.

Section 54.4981A-1T a. General Provisions and Excess Distributions, Q&A a-1 through a-9, discusses how this excise tax is computed in the case of these lifetime distributions.

##### Special Grandfather Rule

Section 4981A(c)(5) allows an individual to elect a special rule to calculate the individual's tax under this new provision. In order to be eligible for this special calculation, the individual must have benefits under these plans and IRAs whose present value equals at least \$562,500 as of August 1, 1986



(grandfather amount). If this special rule is elected, the individual's distributions are offset by the grandfather amount in a manner specified under these regulations over the individual's lifetime, and upon death in the case of an outstanding grandfather amount. The grandfather benefits are not specifically allocated to individual plans but rather offset all distributions that are subject to the new tax. The regulations provide methods for calculating these grandfathered benefits. The calculation of benefits as of August 1, 1986 is done by plan administrators or trustees who hold benefits under these plans or IRAs. The rules provide an alternative simplified method for calculating the grandfather amount. Generally, the amount of such benefits is furnished to the individual upon the individual's request and is then used to substantiate the individual's (or the estate's) calculation of the excise tax for all years that the individual has remaining assets in all retirement plans and IRAs, including one for which the individual has no grandfather benefit.

The regulations provide rules as to the rate at which the grandfathered benefit is recovered (See Q&A b-11 through 14 of § 54.4981A-1T). In order to use this special tax calculation under the grandfather rule, an individual must elect in a manner specified under the regulations. Also, the individual must choose between two alternative methods for recovering the grandfather amount, the "discretionary method" or "the attained age method." Under either method, all distributions received between August 1 and December 31, 1986 are treated as grandfathered amounts.

Under the discretionary method, distributions after 1986 are treated as coming from grandfather amounts in an amount equal to 10 percent of the distributions. For any calendar year, the individual may elect to accelerate the 10-percent rate of grandfather recovery to 100 percent. If the individual elects this acceleration, the 100 percent rate applies to all distributions in the calendar year and, to the extent that there is a remaining grandfather amount, applies to subsequent years until the grandfather benefits are reduced to zero. This discretionary method is provided in the regulations because other methods considered would impose burdensome and complex recordkeeping on administrators of all qualified employer plans and IRAs under which the individual has benefits.

The other method, the attained age method, is only available to an individual who was 35 or older on

August 1, 1986. Under this method the distributions that are received in a calendar year are treated as a recovery of the grandfather amount based on a formula that takes into account the individual's age on August 1, 1986 and the individual's age on the December 31 of the calendar year. In general, under this method the grandfather amount recovered diminishes as the individual ages.

Even though distributions that are treated as a recovery of a grandfather amount are not taxable, they are taken into account (by applying such amounts first against the threshold amount) in determining whether or not other distributions that the individual receives are subject to the excise tax. An individual who elects the special rule for the grandfather amount has a threshold amount that is limited to \$112,500 (adjusted for COLAs) and may not use the \$150,000 threshold amount. Thus, for example, an individual who recovers distributions under the 10-percent discretionary rule in calendar year 1987 and who receives a distribution of \$150,000 in 1987 has \$36,500 of distributions subject to the excise tax of 15 percent (\$150,000—\$112,500). Because the portion of the distribution which is treated as the grandfather amount recovered of \$15,000 (10% of \$150,000) is less than the threshold amount of \$112,500, the recovery of this grandfather amount does not affect the calculation of the 1987 excise tax.

#### *Additional Excise Tax Upon Death*

Section 4981A(d) imposes a 15-percent tax on the individual's excess accumulation on the date of death. In general, accumulation is defined in the same manner as distributions except that there is no exclusion for distributions made after death and the imposition of the tax is not conditioned on receipt of a distribution. The excise tax on an excess accumulation is imposed by increasing the Chapter 11 (estate) tax otherwise due with respect to the individual's estate. The tax is payable under the rules governing the payment of estate tax, e.g., the tax is due 9 months after the date of death and is paid by the executor.

This 15-percent additional excise tax is unaffected by the normal estate tax calculation. Thus, no credits, deductions, exclusions or other special rules for determining the decedent's estate tax affect the calculation of the section 4981A(d) excise tax. For example, the 15-percent tax may apply even though there is no estate tax liability and a Form 706 would have to be filed only to report the excise tax.

The accumulation equals the value of the decedent's interest in all qualified retirement plans and IRAs on the date of death. Generally, these values are determined in the same manner that the value of such interest would be determined for purposes of the estate tax. If the estate is subject to estate tax, the alternate valuation date rules in section 2032 apply. In calculating the amount of the excess accumulation, the value of the decedent's interest in qualified employer plans and IRAs is taken into account regardless of the number of the decedent's beneficiaries. Life insurance proceeds excludible under section 101(a) are not subject to tax.

The calculation of this additional excise tax upon death is done in accordance with several special computational rules. First, an alternative threshold amount is used to determine the amount of the excess accumulation. The alternative threshold amount is based on a hypothetical single life annuity commencing as of the date of the decedent's death payable for the life of an individual whose age is the same as the age of the decedent (in whole years) as of the date of the decedent's death. The annual amount of such annuity used to determine the alternative threshold amount is the annual threshold amount (\$150,000 or the applicable \$112,500 adjusted for COLAs) in effect on the date of death.

Second, if the special grandfather rule applies and the decedent's remaining unrecovered grandfather amount exceeds the applicable alternative threshold amount, the excess accumulation is determined by reducing the decedent's accumulation by the decedent's remaining unrecovered grandfather amount rather than by the alternative threshold amount.

The excise tax on accumulations is in lieu of subjecting, post-death distributions (including distributions of death benefits under these plans or IRAs) to the annual tax on excess distributions received by the decedent's beneficiaries. Thus, except in limited circumstances such as a decedent's spouse (or other individual permitted under prior law) treating a retirement plan or IRA as his own plan or IRA, the decedent's interest in such plan or IRA will not be subject to the tax on lifetime distributions when received by the decedent's beneficiary or beneficiaries.

#### *Reporting, Recordkeeping and Elections*

##### *Grandfather Amounts*

An individual must make the special grandfather elections on the individual's



income tax return for the 1987 or 1988 taxable year. In general, those elections become irrevocable upon the time for filing, with extensions, the return for the 1988 taxable year. If the individual is deceased, the personal representative of the individual may make such elections. The value of the grandfather amount is determined under the records furnished to the individual by the individuals responsible for administering the plans and IRAs. The individual must maintain these records, as well as a copy of the return under which the elections were made, to substantiate later recovery of grandfather amounts. The individual may not independently determine the value of the grandfather amount, as the grandfather amount may only be substantiated by records furnished to the individual under the plans or IRAs for which the individual is claiming a grandfather amount. The regulations provide rules governing how the individual and the plan or IRA trustees or plan administrators must keep records, request information or furnish information concerning these grandfather amounts.

The individual in each taxable year that is subject to the new excise tax must furnish information concerning all distributions from qualified employer plans and IRAs with the individual's income tax return. The tax is reported on the Form 5329, Return for Individual Retirement Arrangement and Qualified Retirement Plans Taxes. The Form 5329 is presently being revised and will be available later this year. The tax is due at the time for filing the relevant income tax return in the same manner that income taxes would be due. Individuals who have no grandfather amount and receive distributions that are less than the threshold amount (\$150,000 or \$112,500 indexed) are not required to file the Form 5329 for the taxable year.

In general, comparable reporting rules apply to the excise tax on excess accumulations. Thus, the personal representative may elect the grandfather rule in the same manner that the individual may elect the rules. The executor of the estate of an individual who has an excess accumulation must file Schedule S (Form 706) with the applicable estate tax return of the individual. Thus, the excise tax is due when the estate tax (if any) would be due. The Schedule S (Form 706) and applicable instructions will provide more detail and rules as to the reporting of the excise tax under section 4981A.

#### Other Special Rules

The regulations provide special rules for (1) taxpayers who elect special tax treatment under sections 402 and 403 for

lump sum distributions received in a taxable year (see Q&A c-1 of § 54.4981A-1T); and (2) the offset of the excise tax on excess distributions by the 10-percent tax under section 72(t) on early distributions from qualified retirement plans (see Q&A c-4 of § 54.4981A-1T).

#### Effective Date of Tax

The excise tax is generally effective with respect to excess distributions received after December 31, 1986 (see Q&A c-6 of § 54.4981A-1T). The additional excise tax on excess accumulations is effective for deaths occurring after December 31, 1986 (see Q&A d-11 of § 54.4981A-1T).

#### Anticipation of Technical Corrections

H.R. 2636 and S. 1350, "the Technical Corrections Act of 1987" would provide numerous technical corrections to section 4981A, correcting and clarifying the rules contained therein. The rules adopted in the regulations anticipate the technical corrections that are arguably clarifying rather than correcting. The rules in the regulations that anticipate technical corrections are listed below:

##### a. Determination of excess contributions.

1. The regulations provide that the distribution of an annuity contract not currently includible in income in satisfaction of plan liabilities is disregarded for purposes of calculating excess distributions.

2. The regulations provide that distributions of certain excess deferrals and excess contributions are not taken into account in determining excess contributions.

##### b. Determination of excess accumulation.

1. The regulations provide that, in determining a decedent's aggregate interest for purposes of determining the tax on excess accumulations, certain benefits are excluded. Those benefits are benefits which generally parallel benefits which if distributed before death, would have been excluded in determining excess distributions. Those benefits also include life insurance proceeds excludible under section 101(a).

2. The regulations provide that no credits under sections 2010 through 2016 or other reduction permitted by chapter 11 are allowable against the tax under section 4981A(d) for excess accumulations.

3. The regulations provide that excess accumulations are computed without regard to community property law.

4. The regulations provide that the alternate threshold amount used to determine excess accumulations is

based on a hypothetical single life annuity for the life of an individual whose age is the same as the age of the decedent (in whole years) as of the decedent's date of death.

##### c. Application of the grandfather rule.

1. The regulations apply the grandfather rule at death in determining the amount of the tax on excess accumulations.

2. The regulations provide that certain benefits payable with respect to an individual are not taken into account in determining the amount grandfathered. These are benefits (e.g., the individual's investment in the contract and benefits payable to certain alternate payees) that when distributed are excluded in determining the amount of excess distributions.

3. The regulations provide that the election of the grandfather rule must be made not later than the due date (with extensions) for filing the individual's 1988 income tax return.

#### Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under Control No. 1545-0203.

#### Drafting Information

The principal author of these proposed regulations is Marjorie Hoffman of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

#### List of Subjects

26 CFR Part 54

Excise taxes.



## 26 CFR Part 602

Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 54 and 602 are amended as follows:

## PART 54—PENSION EXCISE TAXES

**Paragraph 1.** The authority citation for Part 54 is amended by adding the following citation:

**Authority:** 26 U.S.C. 7805. \* \* \* Section 54.4981A-1T is also issued under 26 U.S.C. 4981A.

**Par. 2.** There is added the following new section after § 54.4978-1T to read as follows:

### § 54.4981A-1T Tax on excess distributions and excess accumulations (Temporary).

The following questions and answers relate to the tax on excess distributions and excess accumulations under section 4981A of the Internal Revenue Code of 1986, as added by section 1133 of the Tax Reform Act of 1986 (Pub. L. 99-514) (TRA '86).

#### Tables of Contents

- a. General Provisions and Excess Distributions
- b. Special Grandfather Rules
- c. Special Rules
- d. Excess Accumulations

#### a. General Provisions and Excess Distributions

**a-1: Q.** What changes were made by section 1133 of TRA '86 regarding excise taxes applicable to distributions from qualified employer plans and individual retirement plans?

**A.** Section 1133 of TRA '86 added section 4981A to the Code. Section 4981A imposes an excise tax of 15 percent on (a) excess distributions, as defined in section 4981A(c)(1) and Q&A a-2 of this section, and (b) excess accumulations, as defined in section 4981A(d)(3) and Q&A d-2 of this section. The excise tax on excess distributions generally applies to excess distributions made after December 31, 1986 (see Q&A c-6 of this section). The excise tax on excess accumulations applies to estates of decedents dying after December 31, 1986 (see Q&A d-11 of this section). Excess distributions are certain distributions from qualified employer plans and individual retirement plans. Excess accumulations are certain amounts held on the date of death of an employee or individual by qualified plans and individual retirement plans.

**a-2: Q.** How are excess distributions defined?

**A.** Excess distributions are generally defined as the excess of the aggregate amount of distributions received by or with respect to an individual during a calendar year over the greater of (a) \$150,000 (unindexed) or (b) \$112,500 (indexed as provided in Q&A a-9 of this section beginning in 1988 for cost-of-living increases). Certain individuals may elect to have the portion of their excess distributions that is subject to tax determined under a "special grandfather" rule that is described below (see Q&A b-1 through b-14 of this section).

**a-3: Q.** Distributions from what plans and arrangements are taken into account in applying section 4981A?

**A.** (a) *General rule.* Section 4981A applies to distributions under any qualified employer plan or individual retirement plan described in section 4981A(e). For this purpose, a qualified employer plan means any—

(1) Qualified pension, profit-sharing or stock bonus plan described in section 401(a) that includes a trust exempt from tax under section 501(a);

(2) Annuity plan described in section 403(a);

(3) Annuity contract, custodial account, or retirement income account described in section 403(b)(1), 403(b)(7) or 403(b)(9); and

(4) Qualified bond purchase plan described in section 405(a) prior to that section's repeal by section 491(a) of the Tax Reform Act of 1984 (TRA '84).

(b) *Individual retirement plan.* An individual retirement plan is defined in section 7701(a)(37) and means any individual retirement account described in section 408(a) or individual retirement annuity described in section 408(b). Also, an individual retirement plan includes a retirement bond described in section 409(a) prior to that section's repeal by section 491(b) of the Tax Reform Act of 1984 (TRA '84).

(c) *Other distributions.* (1) Distributions under any plan, contract or account that has at any time been treated as a qualified employer plan or individual retirement plan described in paragraph (a) or (b) of this Q&A a-3 will be treated for purposes of section 4981A as distributions from a qualified employer plan or individual retirement plan whether or not such plan, contract, or account satisfies the applicable qualification requirements at the time of the distribution.

(2)(i) For purposes of this paragraph (c), an employer plan will be considered to have been treated as a qualified employer plan if any employer maintaining the plan has at any time filed an income tax return and claimed deductions that would be allowable

under section 404 (and that were not disallowed) only if the plan was a qualified employer plan under section 401(a) or 403(a). Similarly, if an income tax return has been filed at any time with respect to the trust (or plan or insurance company), and the income of the trust (insurance company, etc.) is reported (and is not disallowed) based on the trust (or plan) being treated as a qualified employer plan described in section 401(a), or 403 (a) or (b), then the employer plan is considered to have been treated as a qualified employer plan.

(ii) For purposes of this paragraph (c), an individual retirement plan (IRA) will be considered to have been treated as a qualified IRA if any contributions to the IRA were either deducted (or designated as a nondeductible contribution described in section 408(o)) on a filed individual income tax return or excluded from an individual's gross income on a filed income tax return because such contributions were reported as regular contributions or rollover contributions (such as those described in section 402(a)(5), 403(a)(4), 403(b)(8) or 408(d)(3)) to an IRA described in section 408 (a) or (b) (or section 409 of pre-1984 law). Similar treatment applies to an employer contribution to a simplified employee pension described in section 408(k), if such contribution is deducted on an employer's filed income tax return, including a self-employed individual's return.

**a-4: Q.** Which distributions with respect to an individual under a qualified employer plan or an individual retirement plan are excluded from consideration for purposes of determining an individual's excess distributions?

**A.** (a) *Exclusions.* In determining the extent to which an individual has excess distributions for a calendar year, the following distributions are disregarded—

(1) Any distribution received by any person with respect to an individual as a result of the death of that individual.

(2) Any distribution with respect to an individual that is received by an alternate payee under a qualified domestic relations order within the meaning of section 414(p) that is includible in the income of the alternate payee.

(3) Any distribution with respect to an individual that is attributable to the individual's investment in the contract as determined under the rules of section 72(f). This would include, for example, distributions that are excluded from gross income under section 72 because



they are treated as a recovery of after-tax employee contributions from a qualified employer plan or nondeductible contributions from an individual retirement plan.

(4) Any portion of a distribution to the extent that it is not included in gross income by reason of a rollover contribution described in section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3).

(5) Any health coverage or any distribution of medical benefits provided under an arrangement described in section 401(h) to the extent that the coverage or distribution is excludible under section 104, 105, or 106.

(b) *Alternate payee.* Any distributions to an alternate payee described in paragraph (a)(2) of this Q&A a-4 must be taken into account by such alternate payee for purposes of calculating the excess distributions received by (or excess accumulations held by) the alternate payee.

a-5: Q. If an annuity contract that represents an irrevocable commitment to provide an employee's benefits under the plan is distributed to an individual, how are the distribution of such annuity contract and distributions of amounts under such a contract taken into account for purposes of calculating excess distributions?

A. Except to the extent that the value of an annuity contract is includible in income in the year the contract is distributed or any subsequent year, the distribution of an annuity contract (including a group annuity contract) in satisfaction of plan liabilities is disregarded for purposes of calculating excess distributions. Any amounts that are actually distributed under the contract to the individual (to the extent not excluded under Q&A a-4 of this section) or are otherwise includible in income with respect to the contract (e.g., by reason of the inclusion in income of the value of the annuity contract in the year of the contract's distribution or any subsequent year) are taken into account for purposes of calculating excess distributions for the calendar year during which such amounts are received or otherwise includible in income. For purposes of this Q&A a-5, the term "plan" means any qualified employer plan or individual retirement plan specified in section 4981A(e) and Q&A a-3 of this section.

a-6: Q. Are minimum distributions required under section 401(a)(9), 408(a)(6), 408(b)(3) or 403(b)(10) taken into account to determine excess distributions?

A. Yes. Distributions received during a calendar year are taken into account in determining an individual's excess

distributions for such calendar year even though such distributions are required under section 401(a)(9), 408(a)(6), 408(b)(3) or 403(b)(10). For example, minimum distributions under section 401(a)(9) received during the 1987 calendar year for calendar years 1985 and 1986 will be subject to section 4981A as distributions for 1987.

a-7: Q. Are distributions of excess deferrals permitted under section 402(g)(2), or distributions of excess contributions or excess aggregate contributions permitted under section 401(k) or (m), or distributions of IRA contributions permitted under section 408(d) (4) or (5) taken into account for purposes of calculating excess distributions?

A. No. Distributions of excess deferrals, excess contributions, excess aggregate contributions, distributions of IRA contributions, and income allocable to such contributions or deferrals, that are made in accordance with the provisions of sections 402(g)(2), 401(k)(8), 401(m)(6), or 408(d) (4) or (5) are not taken into account for purposes of calculating excess distributions.

a-8: Q. What distributions from qualified employer plans or individual retirement plans are taken into account in determining an individual's excess distributions?

A. With the exception of distributions noted above in Q&As a-4, a-5, and a-7 of this section, all distributions from qualified employer plans or individual retirement plans must be taken into account in determining an individual's excess distributions for the calendar year in which such distributions are received. In general, all such distributions are taken into account whether or not they are currently includible in income. Thus, for example, net unrealized appreciation in employer securities described in section 402(a) is taken into account in the year distributed. However, health coverage or distributions of medical benefits provided under an arrangement described in section 401(h) that are excludible from income under section 104, 105, or 106 are not subject to section 4981A. In addition, distributions that are excludible from income because they are rolled over to a plan or an individual retirement account are not taken into account. (See Q&A a-4(a) (4) and (5) of this section). Amounts that are includible in income for a calendar year are treated as distributions and, thus, are taken into account even if the amounts are not actually distributed during such year. Thus, deemed distributions to provide insurance coverage includible in income under section 72 (PS-58 amounts), loan

amounts treated as deemed distributions under section 72(p), and amounts includible under section 402(b) or section 403(c) by reason of the employer plan or individual retirement plan not being qualified during the year are taken into account.

a-9: Q. Will the dollar threshold amount used to determine an individual's excess distributions be adjusted for inflation in calendar years after 1987?

A. Beginning in 1988, the \$112,500 threshold amount is adjusted to reflect post-1986 cost-of-living increases (COLAs) at the same time and in the same manner as the adjustment described in section 415(d). The threshold amount is adjusted even though the distribution is from a defined contribution plan that is subject to a freeze on COLAs because the defined benefit plan limit is below \$120,000 (see section 415(c)(1)(A)). However, the \$150,000 threshold amount is not adjusted to reflect such increases.

#### b. *Special Grandfather Rule*

b-1: Q. How are benefits accrued before TRA '86 treated under the excise tax provisions described in section 4981A?

A. (a) *Grandfather amount.* Certain eligible individuals may elect to use a special grandfather rule that exempts from the excise tax the portion of distributions treated as a recovery of such individual's total benefits accrued on or before August 1, 1986 (grandfather amount). However, distributions that are treated as a recovery of the grandfather amount are taken into account in determining the extent to which other distributions are excess distributions (see Q&A b-4 of this section). Under this special grandfather rule, the grandfather amount equals the value of an individual's total benefits (as described in Q&As b-8 and b-9 of this section) in all qualified employer plans and individual retirement plans on August 1, 1986. An individual's benefits in such plans include amounts determinable on August 1, 1986, that are payable to the individual under a qualified domestic relations order within the meaning of section 414(p) (QDRO). However, QDRO benefits that, when distributed, are includible in the income of the alternate payee are not included in the employee's grandfathered amount. Further, plan benefits that are attributable to a deceased individual and that are payable to an eligible individual as a beneficiary are generally not included in determining the eligible individual's grandfather amount. Procedures for determining the



grandfather amount are described in Q&As b-11 through b-14 of this section.

(b) *Recovery of grandfather amount.* The portion of any distribution made after August 1, 1986, that is treated as a recovery of a grandfather amount depends on which of two grandfather recovery methods the individual elects. The two alternative methods are described in the Q&As b-11 through b-14 of this section. The amount of the distribution for a year that is treated as a recovery of a grandfather amount in a year is applied to reduce the individual's unrecovered grandfather amount for future years (*i.e.*, the individual's accrued benefits as described in Q&As b-8 and b-9 on August 1, 1986, reduced by previous distributions treated as a recovery of a grandfather amount) on a dollar for dollar basis until the individual's unrecovered grandfather amount has been reduced to zero. When the individual's grandfather amount has been reduced to zero, the special grandfather rule ceases to apply and the entire amount of any subsequent excess distributions received is subject to the 15 percent excise tax.

b-2: Q. Who may elect to use the special grandfather rule?

A. Any individual whose accrued benefits as described in Q&As b-8 and b-9 of this section in all qualified plans and individual retirement plans on August 1, 1986 (initial grandfather amount) have a value of at least \$562,500 may elect to use the special grandfather rule.

b-3: Q. How does an eligible individual make a valid election to use the special grandfather rule?

A. (a) *Form of election.* An individual who is eligible to use the special grandfather rule must affirmatively elect to use that rule. The election is made on a Form 5329 filed with the individual's income tax return (Form 1040, etc.) for a taxable year beginning after December 31, 1986, and before January 1, 1989 (*i.e.*, the 1987 or 1988 taxable year).

(b) *Information required.* The individual must report the following information on the Form 5329:

(1) The individual's initial grandfather amount.

(2) The grandfather recovery method to be used.

(3) Such other information as is required by the Form 5329.

(c) *Deadline for election.* The deadline for filing such election is the due date, calculated with extensions, for filing the individual's 1988 income tax return. If an individual dies before the expiration of such deadline, an election, or the revocation of a prior election, may be made as part of the final income tax return filed on behalf of such deceased

individual by the deceased individual's personal representative. An election or revocation of a prior election may also be filed before the expiration of such deadline with Schedule S (Form 706). See Q&A c-7 of this section.

(d) *Revocation of election.* Elections filed before the deadline may be revoked by filing an amended income tax return for any applicable year. A change in the grandfather recovery method is considered a revocation of a prior election and an amended Form 5329 must be filed for any prior year in which a different grandfather recovery method was used. Thus, a change in the election may require a change in the 1987 tax return. An individual must refile for 1987 based on the new election if additional tax is owed. However, an election (or nonelection) is irrevocable after the filing deadline for the taxable year beginning in 1988 has passed. Thus, an individual who has not made an election by the last day plus extensions for filing the 1988 return may not do so through an amended return.

(e) *Subsequent years.* (1) Any eligible individual who has elected the special grandfather rule must attach to the individual's income tax return for all subsequent taxable years in which the individual receives excess distributions (determined without regard to the grandfather rule) a copy of the Form 5329 on which the individual elected the grandfather rule. A copy of the Form 5329 on which the individual (or the individual's personal representative) elected the grandfather rule must also be filed with Schedule S (Form 706) unless the initial election is filed with such schedule.

(2) The individual must also make such other reports in the form and at the time as the Commissioner may prescribe. See Q&A c-7 of this section for the applicable reporting requirements if the individual or the individual's estate is liable for any tax on excess distributions or on an excess accumulation under section 4981A (a) or (d).

b-4: Q. How individuals who have elected to use the special grandfather rule determine the extent to which their distributions for any calendar year are excess distributions?

A. (a) *Excess distributions under grandfather rule, threshold amount.* Individuals who elect to use the special grandfather rule are not eligible to use the \$150,000 threshold amount in computing their excess distributions for any calendar year. Instead, such electing individuals must compute their excess distributions for a calendar year using a \$112,500 (indexed for cost-of-living increases) threshold amount. The rule of

this paragraph (a) applies for all calendar years, including the calendar year in which an individual's unrecovered grandfather amount has been reduced to zero and all subsequent calendar years. Once the indexed amount has increased to \$150,000 or more, the threshold amount will be the same for all individuals.

(b) *Base for excise tax under grandfather rule.* Although the portion of any distribution that is treated as a recovery of an individual's grandfather amount is not subject to the excise tax, such portion must be taken into account in determining the extent to which the individual has excess distributions for a calendar year. The effect of this rule is that the amount against which the 15 percent excise tax is applied for any calendar year during which a grandfather amount is recovered equals the individual's distributions for such year reduced by the greater of (1) the applicable threshold amount for such year or (2) the grandfather amount recovered for such year. (See the examples in Q&A b-14 of this section.)

b-5: Q. How is the value of an individual's total accrued benefits on August 1, 1986, calculated for purposes of determining (a) whether an individual is eligible to elect the special grandfather rule and (b) the amount of any electing individual's initial grandfather amount under such rule?

A. (a) *Introduction.* The value of an individual's total accrued benefits on August 1, 1986, is the sum of the values of the individual's accrued benefits on such date under all qualified employer plans or individual retirement plans, as determined under the Q&A b-5. If such value exceeds \$562,500, the individual may elect the special grandfather rule. In such case, the value so determined may be applied against distributions as determined under this section, whether or not such distributions are from the same plan or IRA for which such grandfather amount is determined. For purposes of determining the value of accrued benefits on August 1, 1986, an annuity contract or an individual's interest in a group annuity contract described in Q&A a-5 of this section is treated as an accrued benefit under the qualified retirement plan or IRA from which it was distributed and an IRA is treated as a defined contribution plan.

(b) *Defined benefit plan—(1) General rule.* The amount of an individual's accrued benefit on August 1, 1986, under a defined benefit plan is determined as of that date under the provisions of the plan based on the individual's service and compensation on that date. The present value of such benefit is



determined by an actuarial valuation of such accrued benefit performed as of August 1, 1986. Alternatively, accrued benefits may be determined as of July 31, 1986. In such case, the applicable rules are applied by substituting the July 31 date for the August 1 date in the applicable provisions. (See Q&A b-9 of this section for rules for determining the amount of benefits and values and the actuarial assumptions to be used in such determination.)

(2) *Alternative method.* Alternatively, the present value of an individual's accrued benefit on August 1, 1986, may be determined using the following method:

(i) Determine the amount of the individual's actual accrued benefit (prior benefit) on the valuation date that immediately precedes August 1, 1986 (prior date). The valuation date for purposes of using this alternative method is the valuation date used for purposes of section 412. In making this determination, plan amendments that are adopted after that prior date are disregarded.

(ii) Determine the amount of the individual's adjusted accrued benefit (adjusted prior benefit) on the prior date by reducing the prior benefit in paragraph (b)(2)(i) of this Q&A b-5 by the amount of distributions that reduce the accrued benefit or transfers from the plan and by increasing the prior benefit in paragraph (b)(2)(i) of this Q&A b-5 by any increase in benefit resulting from either transfers to the plan or plan amendments that were made (or, in the case of a plan amendment, both adopted and effective) after the prior valuation date, but on or before August 1, 1986.

(iii) Determine the amount of the individual's actual accrued benefit (future benefit) on the valuation date immediately following August 1, 1986 (next date). In making this determination, plan amendments, etc. that are either adopted or effective after August 1 are disregarded.

(iv) Determine the amount of the individual's adjusted accrued benefit (adjusted future benefit) on the next date by increasing the future benefit in paragraph (b)(2)(iii) of this Q&A b-5 by the amount of any distributions that reduce the accrued benefit or transfers from the plan and by reducing the future benefit in paragraph (b)(2)(iii) of this Q&A b-5 by the amount of any transfer to the plan that was made after August 1, 1986, but on or before the next valuation date to the amount in paragraph (b)(2)(iii) of this Q&A b-5.

(v) Calculate the weighted average of paragraphs (b)(2)(ii) and (b)(2)(iv) of this Q&A b-5, where the weights applied are the number of complete calendar

months separating the applicable prior date and the applicable next date, respectively, and August 1, 1986.

(vi) Determine the actuarial present value of the benefit in paragraph (b)(2)(v) of this Q&A b-5 as of August 1, 1986, using the methods and assumptions described in Q&A b-9 of this section.

The grandfather amount on August 1, 1986, attributable to the accrued benefits under the defined benefit plan is equal to the amount determined in paragraph (b)(2)(vi) of this Q&A b-5.

(3) *Certain insurance plans treated as defined contribution plans.* (i) Accrued benefits not in pay status under a plan satisfying the requirements of section 411(b)(1)(F) are determined under the rules in paragraph (c) of this Q&A b-5 for defined contribution plans. For purposes of applying paragraph (c) of this Q&A b-5 to such benefits, the cash surrender value of the contract is substituted for the account balance. If accrued benefits are in pay status under such a plan, the rules of this paragraph (b) apply to such benefits.

(ii) Accrued benefits not in pay status that are attributable to voluntary employee contributions (including rollover amounts) to a defined benefit plan are determined under the rules in paragraph (c) of this Q&A b-5 as if the account balance attributable thereto is under a defined contribution plan. If such benefits are in pay status and are used to fund the benefit under the defined plan, the rules of this paragraph (b) apply to such benefits.

(c) *Defined contribution plan—(1) General rule.* The value of an individual's accrued benefit on August 1, 1986, under a defined contribution plan (including IRAs) is the value of the individual's account balance on such date (or on the immediately preceding day). Paragraph (b)(3) of this Q&A b-5 requires that benefits derived from certain insured plans and from voluntary contributions to a defined benefit plan be determined under the rules of this paragraph (c).

(2) *Alternative method.* Alternatively, if a valuation was not performed as of August 1, 1986 (or as of the immediately preceding day), the value of an individual's accrued benefit may be determined as follows:

(i) Determine the value of the individual's account balance on the valuation date immediately preceding August 1, 1986 (prior valuation date).

(ii) Determine the value of the individual's adjusted account balance on the prior valuation date by subtracting (or adding, respectively) the amount of any distribution, including a transfer to another plan or a forfeiture

from the account balance (or the amount of any allocation to the account balance, including a transfer from another plan, rollover received or forfeiture from another account) that was made after the prior valuation date but on or before August 1, 1986, from (or to) the amount in paragraph (c)(2)(i) of this Q&A b-5.

(iii) Determine the value of the individual's account balance on the valuation date immediately following August 1, 1986 (next valuation date).

(iv) Determine the value of the individual's adjusted account balance on the next valuation date by adding (or subtracting, respectively) the amount of any distribution, of a type described in paragraph (c)(2)(ii) of this Q&A b-5 (or the amount of any allocation to the account balance, of a type described in paragraph (c)(2)(ii) of this Q&A b-5), that was made after August 1, 1986, but on or before the next valuation date to (or from) the amount in paragraph (c)(2)(iii) of this Q&A b-5.

(v) Calculate the weighted average of paragraphs (c)(2)(ii) and (c)(2)(iv) of this Q&A b-5, where the weights applied are the number of complete calendar months separating the applicable valuation date and the applicable next date, respectively, and August 1, 1986.

The grandfather amount on August 1, 1986, attributable to the account balance in the defined contribution plan or the individual retirement plan is the amount in paragraph (c)(2)(v) of this Q&A b-5.

b-6: Q. For purposes of determining the value of accrued benefits in a defined contribution plan or a defined benefit plan on August 1, 1986, are nonvested benefits taken into account?

A. Yes. All accrued benefits, whether or not vested, are taken into account.

b-7: Q. To what extent are benefits payable with respect to an individual under a qualified employer plan or an individual retirement plan not taken into account for purposes of calculating the individual's grandfather amount?

A. (a) *Exclusions.* The following benefits payable with respect to an individual are not taken into account for purposes of this calculation:

(1) Benefits attributable to investment in the contract as defined in section 72(f). However, amounts attributable to deductible employee contributions (as defined in section 72(o)(5)(A)) are considered part of the accrued benefit.

(2) Amounts that are determinable on August 1, 1986, as payable to an alternate payee who is required to include such amounts in gross income (a spouse or former spouse) under a qualified domestic relations order (QDRO) within the meaning of section 414(p).



(3) Amounts that are attributable to IRA contributions that are distributed pursuant to section 408(d) (4) or (5).

(b) *Alternate payee.* Under a QDRO described in paragraph (a)(2) of this Q&A b-7, amounts are considered part of the accrued benefit of the alternate payee for purposes of calculating the value of the alternate payee's accrued benefit on August 1, 1986. Similarly, such amounts are used by the alternate payee to compute excess distributions.

b-8: Q. What adjustments to the grandfather amount are necessary to take into account rollovers from one qualified employer plan or individual retirement plan to another such plan?

A. (a) *Rollovers outstanding on valuation date.* Generally, rollovers between plans result in adjustment to the grandfather amounts under the rules in Q&A b-5 of this section. However, if a rollover amount is distributed from one plan on or before an applicable valuation date of such plan and is rolled over into the receiving plan after the receiving plan's applicable valuation date and if these events result in an inappropriate duplication or omission of the rollover amount, then an adjustment to the grandfather amount must be made to remove the duplication or omission. The Commissioner may provide necessary rules concerning this adjustment.

(b) *Valuation.* If the rollover amount described in paragraph (a) of this Q&A b-8 is in a form of property other than cash, the property of which the outstanding rollover consists is valued as of the date the rollover contribution is received by the transferee qualified employer plan or individual retirement plan and that value is the amount of the rollover. If the outstanding rollover is in the form of cash, the amount of the cash is the amount of the rollover.

b-9: Q. What is the form of the grandfather benefit under a defined benefit plan and how is it valued?

A. (a) *Benefit form.* The grandfather amount under a defined benefit plan is determined on the basis of the form of benefit (including any subsidized form of benefit such as a subsidized early retirement benefit or a subsidized joint and survivor annuity) provided under the plan as of August 1, 1986 that has the greatest present value as determined in paragraph (b) of this b-9. If the plan provides a subsidized joint and survivor annuity, for purposes of determining the grandfather amount, it will be assumed that an unmarried individual is married and that the individual spouse is the same age as the individual. Assumptions as to future withdrawals, future salary increases or future cost-of-living increases are not permitted.

(b) *Value of grandfather amount.* The grandfather amount under a defined benefit plan is the present value of the individual's benefit form determined under paragraph (a) of this Q&A b-9. Thus, the benefit form is reduced to reflect its value on the applicable valuation date. The present value of the benefit form on August 1, 1986, or the applicable date, is computed using the factors specified under the terms of the plan as in effect on August 1, 1986, to calculate a single sum distribution if the plan provides for such a distribution. If the plan does not provide for such a distribution form, such present value is computed using the interest rate and mortality assumptions specified in § 20.2031-7 of the Estate Tax Regulations.

b-10: Q. Is the plan administrator (or trustee) of a qualified plan (or individual retirement account) required to report to an individual the value of the individual's benefit under the plan as of August 1, 1986?

A. (a) *Request required.* No report is required unless the individual requests a report and the request is received before April 15, 1989. If requested, the plan administrator (or trustee or issuer) must report to such individual the value of the individual's benefit under the plan as of August 1, 1986, determined in accordance with Q&A a-5 through a-10 of this section. Such report must be made within a reasonable time after the individual's request but not later than July 15, 1989.

(b) *Other rules.* Alternate payees must make their own request for valuation reports. Any report furnished to an employee who has an alternate payee with respect to the plan must include the separate values attributable to each such individual. Any report furnished to an alternate payee must include only the value attributable to the alternate payee. Reports may be furnished to individuals even if no request is made. Individuals must keep records of the reports received from plans or IRAs in order to substantiate all grandfather amounts.

(c) *Authority.* The rules in this Q&A are provided under the authority in section 6047(d).

b-11: Q. How is the portion of a distribution that is treated as a recovery of an individual's grandfather amount as described in b-1 of this section to be calculated?

A. (a) *General rule.* All distributions received between August 1 and December 31, 1986, inclusive, are treated as a recovery of a grandfather amount. The portion of distributions received after December 31, 1986, that is treated as a recovery of the grandfather amount

is determined under either the discretionary method or the attained age method. An amount that is treated as a recovery of grandfather benefits is applied to reduce the initial grandfather amount that was calculated as of August 1, 1986, on a dollar for dollar basis until the unrecovered amount has been reduced to zero. No other recalculation of the grandfather amount is to be made for a date after August 1, 1986.

(b) *Methods, etc.* The grandfather amount may be recovered by an individual under either the discretionary method or the attained age method. After the individual's total grandfather amount is treated as recovered under either method, the tax on excess distributions and excess accumulations is determined without regard to any grandfather amount.

b-12: Q. Under the discretionary method, what portion of each distribution is treated as a return of the individual's grandfather amount?

A. (a) *Initial percentage.* Under the discretionary method, unless the individual elects in accordance with paragraph (b) below, 10 percent of the total distributions that the individual receives during any calendar year is treated as a recovery of the grandfather amount.

(b) *Acceleration.* The individual may elect to accelerate the rate of recovery to 100 percent of the total aggregate distributions received during a calendar year commencing with any calendar year, including 1987 (acceleration election). In such case, the rate of recovery is accelerated to 100 percent for the calendar year with respect to which the election is made and for all subsequent calendar years.

(c) *Election.* To recover the grandfather amount using the discretionary method, an individual must elect to use such method when making the election to use the special grandfather rule on the Form 5329. (See Q&A b-3 of this section.) The acceleration election must be made for the individual's taxable year beginning with or within the first calendar year for which such election is made and must be filed with the individual's income tax return for that year. Such acceleration election may also be made or revoked retroactively on an amended return for such year. However, the acceleration election may not be made after the individual's death other than with the individual's final income tax return or with a return for a prior year for which a return was not filed before the individual's death. Thus, the acceleration election may not be made on an amended return filed after the



individual's death for a year for which a return was filed before the individual's death. The preceding two sentences shall not apply to deaths occurring in 1987 or 1988. The estate is entitled to use the remaining grandfather amount to determine if there is an excess accumulation. See Q&A d-3 of this section. The acceleration election shall be made on such form and in such manner as the Commissioner prescribes in a manner consistent with the rules of this section.

**b-13: Q.** Under the attained age method, what portion of each distribution is treated as a return of the individual's grandfather amount?

**A.** Under the attained age method, the portion of total distributions received during any year that is treated as a recovery of an individual's grandfather amount is calculated by multiplying the individual's aggregate distributions for a calendar year by a fraction. The numerator of the fraction is the difference between the individual's attained age in completed months on August 1, 1986, and the individual's attained age in months at age 35 (420 months). The denominator of the fraction is the difference between the individual's attained age in completed months on December 31 of the calendar year and the individual's attained age in months at age 35 (420 months). An individual whose 35th birthday is after August 1, 1986, may not use the attained age method.

**b-14: Q.** How is the 15 percent tax with respect to excess distributions for a calendar year calculated by an individual who has elected to use the special grandfather rule?

**A.** The calculation of the excise tax may be illustrated by the following examples:

**Example 1.** (a) An individual (A) who participates in two retirement plans, a qualified defined contribution plan and a qualified defined benefit plan, has a total value of accrued benefits on August 1, 1986 under both plans of \$1,000,000. Because this amount exceeds \$562,000, A is eligible to elect to use the special grandfather rule to calculate the portion of subsequent distributions that are exempt from tax. A elects to use the discretionary grandfather recovery method and attaches a valid election to the 1987 income tax return. A does not elect to accelerate the rate of recovery for 1987. On October 1, 1986, A receives a distribution of \$200,000. On February 1, 1987, A receives a distribution of \$45,000 and, on November 1, 1987, receives a distribution of \$200,000. The 15 percent excise tax applicable to aggregate distributions in 1987 is calculated as follows:

- |  |             |
|--|-------------|
| (1) Value of grandfather amount on 8/1/86..... | \$1,000,000 |
| (2) Grandfather amounts recovered in           |             |

1986 but after 8/1/86.....	\$200,000
(3) Value of grandfather amount on 12/31/86 ((1) - (2)).....	\$800,000
(4) Grandfather recovery percentage.....	10%
(5) Distributions between 1/1/87 and 12/31/87 (\$45,000 + \$200,000).....	\$245,000
(6) Portion of (5) exempt from tax ((4) x (5)).....	\$24,500
(7) Amount potentially subject to tax ((5) - (6)).....	\$220,500
(8) Portion of aggregate distributions in excess of \$112,500 (\$45,000 + \$200,000 - \$112,500).....	\$132,500
(9) Amount subject to tax (lesser of (7) and (8)).....	\$132,500
(10) Amount of tax (15% of (9)).....	\$19,875
(11) Remaining undistributed value of grandfather amount as of 12/31/87 ((3) - (6)).....	\$775,500

(b) In 1988, A receives no distributions from either plan. On February 1, 1989, A receives a distribution of \$300,000 and on December 31, 1989, receives a distribution of \$75,000. A makes a valid acceleration election for the 1989 taxable year, whereby A accelerates the rate of grandfather recovery that will apply for calendar years after 1988 to 100 percent. Assume the annual threshold amount for the 1989 calendar year is \$125,000 (i.e., 112,500 indexed). The 15 percent excess tax applicable to distributions in 1989 is calculated as follows:

(1) Value of grandfather amount on 8/1/86.....	\$775,500
(2) Grandfather recovery percentage designated for 1989 calendar year.....	100%
(3) Distributions between 1/1/89 and 12/31/89 (\$300,000 + \$75,000).....	\$375,000
(4) Portion of (3) exempt from tax (2) x (3).....	\$375,000
(5) Amount potentially subject to tax ((3) - (4)).....	\$0
(6) Portion of aggregate distributions in excess of \$125,000 (\$300,000 + \$75,000 - \$125,000).....	\$250,000
(7) Amount subject to tax (lesser of (5) and (6)).....	\$0
(8) Amount of tax (15% of (7)).....	\$0
(9) Remaining undistributed value of grandfather amount as of 12/31/89 ((1) - (4)).....	\$400,500

The entire amount of any distribution for subsequent calendar years will be treated as a recovery of the grandfather amount and applied against the grandfather amount until the unrecovered grandfather amount is reduced to zero.

**Example 2.** The facts are the same as in Example 1 except that A elects to use the attained age recovery method and A makes a valid election for the 1987 taxable year. Further assume that A's attained age in months on August 1, 1986 is 462 months and on December 31, 1987 is 476 months. The 15 percent excise tax applicable to aggregate distributions in 1987 is calculated as follows:

(1) Value of grandfather amount on 8/1/86.....	\$1,000,000
(2) Grandfather amounts recovered in 1986 but after 8/1/86.....	\$200,000
(3) Value of grandfather amount on 12/31/86 ((1) - (2)).....	\$800,000
(4) Completed months of age in excess of 420 on 8/1/86.....	42
(5) Completed months of age in excess	

of 420 on 12/31/87.....	56
(6) Grandfather fraction as of 12/31/86 ((4) divided by (5)).....	3/4
(7) Distributions between 1/1/87 and 12/31/87 (\$45,000 + \$200,000).....	\$245,000
(8) Portion of (7) exempt from tax ((6) x (7)).....	\$183,750
(9) Amount potentially subject to tax ((7) - (8)).....	\$61,250
(10) Portion of aggregate distributions in excess of \$112,500 (\$45,000 + \$200,000 - \$112,500).....	\$132,500
(11) Amount subject to tax (lesser of (9) and (10)).....	\$61,250
(12) Amount of tax (15% of (11)).....	\$9,187
(13) Unrecovered grandfather amount as of 12/31/87 ((3) - (8)).....	\$616,250

#### c. Special Rules

**c-1: Q.** How is the excise tax computed if a person elects special tax treatment under section 402 or 403 for a lump sum distribution?

**A.** (a) *General rule*—(1) *Conditions.* Section 4981A(c)(4) provides for a special tax computation that applies to an individual in a calendar year if the individual receives distributions that include a lump sum distribution and the individual makes certain elections under section 402 or 403 with respect to that lump sum distribution (lump sum election).

(2) *Lump sum election.* A lump sum election includes an election of (i) 5-year income averaging under section 402(e)(4)(B); (ii) phaseout capital gains treatment under sections 402(a)(2) or 403(a)(2) prior to their repeal by section 1122(b) of TRA '86 and as permitted under section 1122(h)(4) of TRA '86; (iii) grandfathered long-term capital gains under sections 402(a)(2) and 403(a) prior to such repeal and as permitted by section 1122(h)(3) of TRA '86; and (iv) grandfathered 10-year income averaging under section 402(e) (including such treatment under a section 402(e)(4)(L) election) prior to amendment by section 1122(a) of TRA '86 and as permitted by section 1122(h)(3)(A)(ii) and (5) of the TRA '86.

(3) *Special tax computation.* (i) If the conditions in paragraph (a)(1) of this Q&A c-1 are satisfied for a calendar year, the rules of this subparagraph (a)(3) apply for purposes of determining whether there are excess distributions and tax under section 4981A.

(ii) All distributions are divided into two categories. These two categories are the lump sum distribution and other distributions. Whether or not a particular distribution is a distribution subject to section 4981A and is in either category is determined under the rules in section 4981A and this section. Thus, the exclusions under section 4981A(c)(2) and Q&A a-4(a) of this section apply



here. For example, a distribution that is a tax-free recovery of employee contributions is not in either category.

(iii) The excise tax under section 4981A(c)(1) is computed in the normal manner except that (A) it is the sum of the otherwise applicable taxes determined separately for the two categories of excess distributions and (B) a different amount (threshold amount) is subtracted from the distributions in each category in determining the amount of the excess distributions. The threshold amount that is subtracted from the portion of the distributions that is not part of the lump sum distribution is the applicable threshold amount, determined without regard to section 4981A(c)(4) and the lump sum election. Thus, the threshold amount subtracted from the amount in this category is either the \$150,000 amount or the \$112,500 amount (indexed). The threshold amount that is subtracted from the amount of the lump sum distribution is 5 times the applicable threshold amount as described above. Thus, the threshold amount subtracted from the lump sum distribution is \$750,000 or 5 times \$112,500 indexed (initially \$562,500).

(b) *Grandfather rule*—(1) *In general*. This paragraph (b) provides special rules where an individual makes both the grandfather election described in section 4981A(c)(5) and the lump sum election described in paragraph (a) of this Q&A c-1. See Q&A b-11 through 14 for other rules that apply to such grandfather election.

(2) *Discretionary method*. If the individual uses the discretionary method, described in Q&As b-11 and 12 of this section, the applicable threshold amount is \$112,500 (indexed). Under this method, the grandfather amount is recovered at a 10 percent or 100 percent rate in any calendar year and is offset separately against distributions in each category of distributions at the appropriate rate. If, for any calendar year, distributions are received in both categories and the total of the appropriate percentage (10 percent or 100 percent) of the distributions in each category exceed the unrecovered grandfathered amount, then such grandfather amount must be recovered ratably from the distributions in each category. This rule applies even if the distributions in one category are less than the threshold amount for that category and the distributions in the other category exceed the threshold amount for that category.

(3) *Attained age method*. If the individual uses the attained age method, described in Q&As b-11 and 13 of this section, the threshold amount is \$112,500

(indexed). Under this method, to determine the portion of the distributions in each category that is treated as a recovery of the grandfather amount, the fraction described in Q&A b-13 of this section is applied separately to the distributions in each category of distributions. If, for any calendar year, distributions are received in both categories and the total of the amounts of the distributions in each category that are treated as a recovery of the grandfather amount exceeds that uncovered grandfather amount, then such grandfather amount must be recovered ratably from the distributions in each category. This rule applies even if the distributions in one category are less than the threshold amount for that category and the distributions in the other category exceed the threshold amount for that category.

(c) *Amount in lump sum category*. All amounts received from the employer that are required to be distributed to the individual in order to make a lump sum election described in paragraph (a) of this Q&A c-1 are included in the lump sum category. Amounts are in the lump sum category even though they are not subject to income tax under the election. Thus, for example, the following amounts would be in the lump sum category: (1) Appreciation on employer securities received as part of a distribution for which a lump sum treatment is elected; and (2) amounts that are phased out when section 1122 of TRA '86 is elected. However, accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)) are in the nonlump sum category.

(d) *Examples*. The rules in this Q&A c-1 are illustrated by the following examples:

*Example (1)*. (a) On January 1, 199X, individual A who is age 65 and is a calendar year taxpayer receives a lump sum distribution described in section 402(e)(4)(A) from a qualified employer plan (Plan X). A receives no other distribution in 199X. A elects 5-year income averaging under section 402(e)(4)(B) and also elects section 402(e)(4)(L) treatment (treating pre-74 participation as post-1973 participation) on A's income tax return for 199X. Thus, A also makes the lump sum election described in paragraph (a)(2), above. For 199X, the \$112,500 threshold amount indexed is \$125,000. A does not make a grandfather election so that A's threshold amount is \$150,000.

(b) A's distribution from Plan X consists of cash in the amount of \$800,000. A has a section 72(f) investment in the contract. A has over the years made after tax contributions to Plan X of \$50,000. A's distributions subject to section 4981A equal \$750,000 because of the exclusion of A's \$50,000 after-tax contributions.

(c) A's distributions consist solely of amounts in the lump sum category. A's threshold amount equals \$750,000 under the rules of this paragraph (a)(iii), above, (5 times \$150,000). Because A's threshold amount (\$750,000) equals the amount of A's distribution from Plan X (\$750,000) no part of A's distribution from Plan X is treated as an excess distribution subject to the 15-percent excise tax.

*Example (2)*. (a) Assume the same facts as in *Example (1)*, except that A receives an additional distribution from an individual retirement plan described in section 408(a) (IRA Y) in 199X of \$150,000. A has made no nondeductible contributions to IRA Y and all of the \$150,000 is a distribution subject to section 4981A.

(b) A's distributions consist of two categories, the lump sum category (Plan X \$750,000) and the other than lump sum category (IRA Y \$150,000). A separate threshold amount is subtracted from A's IRA Y distribution. This threshold amount equals \$150,000 under the rules of this paragraph (a)(3), above, the same initial threshold amount that is applied against the lump sum prior to the multiplication by 5. Because A's threshold amount (\$150,000) equals the amount of A's distribution from IRA Y (\$150,000), no part of A's distribution from IRA Y would be treated as an excess distribution subject to the 15-percent excise tax.

*Example (3)*. (a) Assume the same facts as in *Example (2)*, except that A's distribution is \$825,000 from Plan X, before reduction of \$50,000 for employee contributions, instead of \$800,000, so that A's distribution subject to section 4981A from Plan X is \$775,000. A made a valid grandfather election. Therefore, the applicable threshold amount is \$125,000 (\$112,500 indexed for 199X). A's unrecovered grandfather amount as of the end of the year preceding 199X is \$1,000,000 (A had a benefit under another retirement plan (Plan Z) on August 1, 1986, and A's account balance under Plan Z, which is a stock bonus plan, is \$6,000,000 on January 1, 199X.) A also made a valid election of the discretionary method to recover A's grandfather amount.

(b) If A recovers A's grandfather amount in 199X at the 10 percent rate, 10 percent of A's distributions that are in the lump sum category (Plan X \$775,000) is treated as a recovery of A's grandfather amount. Similarly, 10 percent of A's distributions that are in the other than lump sum category (IRA Y \$150,000) is treated as a recovery of A's grandfather amount. Thus, A's grandfather amount is reduced by \$92,500 (\$77,500 Plan X and \$15,000 IRA Y) for the 199X calendar year and is \$907,500 on January 1 of the year following 199X. Because the amounts of the distributions in each category that are treated as a recovery of grandfather amount are less than the applicable threshold amount for each category (\$625,000 Plan X, \$125,000 IRA Y), the recovery of the grandfather amount does not affect the calculations of the 199X excise tax.

(c) Because A's distribution from IRA Y of \$150,000 exceeds A's threshold amount of \$125,000 (\$112,500 indexed) applicable to nonlump sum distributions by \$25,000 and A's



distribution subject to section 4981A from Plan X of \$775,000 exceeds A's threshold amount of \$625,000 (5 X \$125,000) applicable to lump sums by \$150,000, A is subject to the 15-percent excise tax. A's tax under section 4981A is \$26,250 (15 percent of \$25,000 plus 15 percent of \$150,000).

**Example (4).** (a) Assume the same facts as in *Example (3)* except that A makes a valid acceleration election under the discretionary method with respect to A's grandfather amount of \$1,000,000 for calendar year 199X.

(b) Because A's grandfather amount on January 1, 199X (\$1,000,000) equals or exceeds A's distribution subject to section 4981A (\$925,000) for 199X, no part of A's distribution from Plan X or IRA Y would be treated as excess distribution subject to the 15-percent excise tax.

(c) A's distributions subject to 4981A from Plan X of \$775,000 and from IRA X of \$150,000 are offset 100 percent by A's grandfather amount of \$1,000,000. Therefore, A's grandfather amount on January 1 of the year following 199X is \$75,000 (\$1,000 minus \$925,000). This \$75,000 would be required to be offset 100 percent against any distributions received in that year.

**Example (5).** (a) Assume the same facts as in *Example (4)*, except that A's distribution subject to section 4981A from Plan X, after reduction of the \$50,000 for employee contributions, is \$1,000,000 and from IRA Y is \$125,000 (equal to the threshold amount), totaling \$1,125,000.

(b) Because the sum of the amount received in the lump sum category and the other than lump sum category of distributions is greater than the grandfather amount (\$1,000,000), the grandfather amount must be allocated to each separate category on the basis of the ratio of the amount received in each category to the sum of these amounts. Thus, \$888,889 (\$1,000,000 X (\$1,000,000 divided by \$1,125,000)) is allocated to the lump-sum category and \$111,111 (\$1,000,000 X (\$125,000 divided by \$1,125,000)) is allocated to the other than lump sum category. A's distributions of \$1,000,000 in the lump sum category are reduced by \$888,889, the greater of \$625,000 (the threshold amount) or \$888,889 (grandfather amount), and equal \$111,111. A's excise tax is \$16,666 (15 percent of \$111,000). A owes no excess distribution tax on the \$125,000 received from IRA Y because it is fully offset by the threshold amount of \$125,000.

(c) Because A's distribution subject to section 4981A for the year of \$1,125,000 (\$1,000,000 plus \$125,000) exceeds A's grandfather amount on January 1, 199X of \$1,000,000, A's grandfather amount is zero for all subsequent calendar years.

**c-2: Q.** Must retirement plans be amended to limit future benefits accruals so that the amounts that are distributed would not be subject to an excise tax under section 4981A?

**A.** No. A qualified employer plan need not be amended to reduce future benefits so that the amount of annual aggregate distributions are not subject to tax under section 4981A. Section 415 does, however, require plan provisions that limit the accrual of benefits and

contributions to specified amounts. The operation of the excise tax of section 4981A is independent of plan qualification requirements limiting benefits and contributions under qualified plans.

**c-3: Q.** Is a plan amendment reducing accrued benefits a permitted method of avoiding the excise tax?

**A.** No. Accrued benefits may not be reduced to avoid the imposition of the excise tax. Such reduction would violate employer plan qualification requirements, including section 411(d)(6).

**c-4: Q.** To what extent is the 15 percent section 4981A tax reduced by the 10 percent section 72(t) tax?

**A.** (a) *General rule.* The 15 percent tax on excess distributions may be offset by the 10 percent tax on early distributions to the extent that the 10 percent tax is applied to excess distributions. For example, assume that individual (A), age 56, receives a distribution of \$200,000 from a qualified employer plan (Plan X) during calendar year 1987.

Further, assume that the entire distribution is subject to the 10-percent tax of section 72(t). A tax of \$20,000 (10% of \$200,000) is imposed on the distribution under section 72(t). Assuming that the distribution is not a lump sum distribution eligible for special tax treatment under section 402, part of the distribution is subject to tax under section 4981A. If A does not elect the special grandfather rule, A's dollar limitation is \$150,000 and the amount of \$200,000 distribution that is an excess distribution is \$50,000 (\$200,000 - \$150,000). The 15 percent tax is \$7,500 (15% of \$50,000). The portion of the \$20,000 section 72(t) tax on early distributions that is attributable to the excess distribution is \$5,000 (10% of \$50,000). This amount is credited against the section 4981A tax. Therefore, the total tax imposed on the distribution under both provisions is \$22,500 (\$20,000 + [\$7,500 - \$5,000]).

(b) *Example.* (1) If some, but not all, distributions made for a calendar year are subject to the section 72(t) tax, the offset is applied only to the extent that the section 72(t) tax applies to amounts that exceed the applicable threshold amount for that calendar year. For example, assume that during 1987 individual B receives a distribution of \$40,000 that is not subject to the 10 percent section 72(t) tax and a separate distribution of \$160,000 that is subject to the 10 percent section 72(t) tax. A tax of \$16,000 (10% of \$160,000) is imposed by section 72(t). Excess distributions for the year, assuming B does not elect the special grandfather rule, are \$50,000 (\$40,000 + \$160,000 - \$150,000). The tax

under section 4981A is \$7,500 (15% of \$50,000). For purposes of determining the extent to which the 10 percent tax is applied to excess distributions, the only amounts subject to the 10 percent tax that are taken into account are distributions in excess of \$150,000 (or if greater, the \$112,500 (indexed) threshold for the year). The amount of distributions for 1987 to which the 10 percent tax is applicable (\$160,000) exceeds \$150,000 by \$10,000. Thus, the portion of the section 72(t) tax of \$16,000 that is attributable to excess distributions equals \$1,000 (10 percent of \$10,000). This amount is credited against the section 4981A tax. The total tax payable under the provisions of sections 72(t) and 4981A is \$18,500 (\$16,000 + [\$7,500 - \$1,000]).

(c) *Net unrealized appreciation.* A distribution consisting of net unrealized appreciation of employer securities that is excluded from gross income is not subject to section 72(t) and, therefore, there is no section 72(t) tax on such distribution that may be used to offset the tax on excess distributions.

**c-5: Q.** If a distribution that is subject to both the 10 percent tax on early distributions from qualified plans imposed under section 72(t) and the 15 percent tax on excess distributions imposed under section 4981A is received by an individual who elects to calculate the 15 percent tax using the special grandfather rule, how is the offset of the 10 percent tax imposed under section 72(t) calculated?

**A.** The section 4981A tax is reduced only by the amount of the 10 percent tax that is attributable to the portion of the distribution to which the section 4981A tax applies. For example, assume that (a) an individual (A), age 57, receives during 199X a distribution from a qualified plan of \$325,000 that is subject to the 10 percent section 72(t) tax; (b) the distribution is not a lump sum distribution and is subject to the 15 percent excise tax imposed by section 4981A; (c) A has elected to use the special grandfather rule; and (d) A accelerates the rate of recovery of the remaining grandfather amount of \$250,000 so that only \$75,000 of this distribution is subject to the section 4981A tax. Thus, the section 4981A tax is \$11,250 (15% of \$75,000). The portion of the section 72(t) 10 percent tax that is offset against the section 4981A tax of \$11,250 is limited to \$7,500 (10% of \$75,000), the section 72(t) tax on the amount of distributions after taking into account the reduction under the grandfather rule.



c-6: Q. When do distributions become subject to the excise tax under section 4981A?

A. (a) *General rule.* Excess distributions made after December 31, 1986, are subject to the excise tax under section 4981A.

(b) *Transitional rule—(1) Termination.* Distributions prior to January 1, 1988, made on account of certain terminations of a qualified employer plan are not subject to tax under section 4981A. For a plan termination to be eligible for this transitional rule, the plan termination must occur before January 1, 1987. For purposes of applying the rules of section 4981A (except the reporting requirements), any such distribution is treated as if made on December 31, 1986. The distribution of an annuity contract is not an excepted distribution. See Q&A a-5 of this section.

(2) *Lump sum distributions.* A lump sum distribution that an individual who separates from service in 1986 receives in calendar year 1987 before March 16 is treated as a distribution received in 1986 if such individual elects to treat it as received in 1986 under the provisions of section 1124 of TRA '86. Thus, such a qualifying section 1124 distribution is not subject to tax under section 4981A for 1987. For purposes of applying the rules of section 4981A, the amount attributable to such distribution is included in the individual's August 1, 1986 accrued benefit and such distribution is treated as if made on December 31, 1986.

(3) *Grandfather amount recovery.* If an individual described in this paragraph elects the special grandfather rule, the entire amount of distributions described in subparagraph (1) or (2) of this paragraph (b) is treated as a recovery of the individual's grandfather amount because it is treated as received on December 31, 1986. Thus, the individual's outstanding grandfather amount as of the date of the distribution is reduced by the amount of such distribution.

c-7: Q. How is the tax on excess distributions or on excess accumulations under section 4981A reported?

A. (a) *Tax on excess distributions.* An individual liable for tax on account on excess distributions under section 4981A must complete Form 5329 and attach it to his income tax return for the taxable year beginning with or within the calendar year during which the excess distributions are received. The amount of the tax is reported on such form and in such manner as prescribed by the Commissioner.

(b) *Tax on excess accumulations—(1) General rule.* If, with respect to the

estate of any individual, there is a tax under section 4981A(d) on account of the individual's excess accumulations, the amount of such tax is reported on Schedule S (Form 706 or 706NR). Schedule S must be filed on or before the due date under section 6075 including extensions, for filing the estate tax return. The tax under section 4981A(d) must be paid by the otherwise applicable due date for paying the estate tax imposed by chapter 11 even if, pursuant to section 6018(a), no return is otherwise required with respect to the estate tax imposed by chapter 11.

(2) *Earliest due date.* Notwithstanding paragraph (b)(1) of this c-7, the due date for filing Schedule S (Form 706) and paying the tax on excess accumulations under section 4981A(d) is not earlier than February 1, 1988. Thus, with respect to the estates of individuals dying in January through April of 1987, the due date for filing Schedule S (Form 706) and paying any tax owed under section 4981A(d) is not earlier than February 1, 1988, even if the due date for filing the Schedule 706 and paying the estate tax imposed by chapter 11 is an earlier date. Further, no interest or penalties will be charged for failure to pay any tax on excess accumulations under section 4981A before January 31, 1988.

c-8: Q. Does the fact that the benefits under a qualified retirement plan or individual retirement account are community property affect the determination of the excise tax under section 4981A?

A. Generally, no. The operation of community property law is disregarded in determining the amount of aggregate annual distributions. Thus, the excise tax under section 4981A is computed without regard to the spouse's community property interest in the individual's or decedent's distributions or accumulation. Also, any reporting to the individual by a trustee, must be done on an aggregate basis without regard to the community property law.

#### d. Excess Accumulations

d-1: Q. To what extent does section 4981A increase the estate tax imposed by chapter 11 with respect to the estates of any decedents?

A. Section 4981A(d) provides that the estate tax imposed by chapter 11 with respect to the estate of any decedent is increased by an amount equal to 15 percent of the decedent's excess accumulation. See Q&A d-2 through d-7 of this section for rules for determining the decedent's excess accumulation. See Q&A d-8 of this section concerning credits under section 2010 through 2016. See Q&A d-9 of this section for

examples illustrating the determination of the increase in estate tax under section 4981A(d).

d-2: Q. How is the amount of an decedent's excess accumulation determined?

A. (a) *General rule.* A decedent's excess accumulation is the excess of (1) the aggregate value of the decedent's interests in all qualified employer plans and individual retirement plans (decedent's aggregate interest) as of the date of the decedent's death over (2) an amount equal to the present value of a hypothetical life annuity determined under Q&A d-7 of this section. If the personal representative for the individual's estate elects to value the property in the gross estate under section 2032, the applicable valuation date prescribed by section 2032 shall be substituted for the decedent's date of death.

(b) *Other rules.* See Q&A d-3 and d-4 of this section if the decedent or, where appropriate, the decedent's personal representative validly elects the special grandfather rule and has any unused grandfather benefit as of the date of his death. See Q&A d-5 and d-6 of this section to determine the decedent's aggregate interest.

d-3: Q. Does the special grandfather rule apply for purposes of determining the amount of the decedent's excess accumulation?

A. Yes. If a decedent prior to death (or the decedent's personal representative after death) makes an election that satisfied the procedures in Q&A b-3 of this section, the special grandfather rule applies.

d-4: Q. How is the decedent's excess accumulation determined if the special grandfather rule applies?

A. If the special grandfather rule applies, the decedent's excess accumulation is the excess of (a) the decedent's aggregate interest (determined under Q&A d-5 of this section) over (b) the greater of (1) the decedent's remaining unrecovered grandfather amount as of the date of the decedent's death, or (2) an amount equal to the present value of a hypothetical life annuity under Q&A d-7 of this section.

d-5: Q. How is the value of the decedent's aggregate interest as of the applicable valuation date under Q&A d-2 determined?

A. (a) *Method of valuation.* The value of the decedent's aggregate interest on the decedent's date of death is determined in a manner consistent with the valuation of such interests for purposes of determining the individual's gross estate for purposes of chapter 11.



If the personal representative for an individual's estate subject to estate tax elects to value the property in the gross estate under section 2032, the decedent's aggregate interest is valued in a manner consistent with the rules prescribed by section 2032 (and other relevant estate tax sections). No adjustments provided in chapter 11 in valuing the gross estate are made. Thus, there is no adjustment under section 2057 (relating to the sale of certain employer securities).

(b) *Amounts included.* Generally, all amounts payable to beneficiaries of the decedent under any qualified employer plan (including amounts payable to a surviving spouse under a qualified joint and survivor annuity or qualified preretirement survivor annuity) or individual retirement plan, whether or not otherwise included in valuing the decedent's gross estate, are considered to be part of the decedent's interest in such plan.

(c) *Rollover after death.* If any amount is distributed from a qualified employer plan or individual retirement plan within the 60-day period ending on the decedent's date of death and is rolled over to an IRA after such date but within 60 days of the date distributed, the decedent's aggregate interest is increased by the amount rolled over, valued as of the date received by the IRA.

d-6. Q. Are there any reductions in the decedent's aggregate interest?

A. The decedent's aggregate interest is reduced by the following:

(a) *Amount payable to alternate payee.* The amount of any portion of the deceased individual's interest in a qualified employer plan that is payable to an alternate payee in whose income the amount is includible under a qualified domestic relations order within the meaning of section 414(p) (QDRO). However, such portion must be taken into account in determining the excess distribution or the excess accumulation upon the death of such alternate payee for purposes of determining if there is a tax under section 4981A(a) or an increase in the estate tax under section 4981A(d) with respect to such alternate payee.

(b) *Investment in the contract.* The amount of the deceased individual's unrecovered investment, within the meaning of section 72(f), in any qualified employer plan or individual retirement plan.

(c) *Life insurance proceeds.* The excess of any amount payable by reason of the death of the individual under a life insurance contract held under a qualified employer plan over the cash surrender value of such contract immediately before the death of such

individual (the amount excludible from income by reason of section 101(a)). Amounts excludible from gross income because of section 101(b) do not reduce the decedent's aggregate interest.

(d) *Interest as a beneficiary.* The amount of the deceased individual's interest in a qualified retirement plan or individual retirement plan by reason of the death of another individual.

d-7. Q. How is the present value of the hypothetical life annuity determined?

A. (a) *General rule.* The hypothetical life annuity is a single life annuity contract that provides for equal annual annuity payments commencing on the decedent's date of death for the life of an individual whose age is the same as the decedent's determined as of the date of the decedent's death. The amount of each annual payment is equal to the greater of \$150,000 (unindexed) and \$112,500 (as indexed until the date of death). If the decedent elected (or the decedent's personal representative elects) the special grandfather rule, the amount of each annual payment is \$112,500 (as indexed until the date of death) even if there is no remaining grandfather amount.

(b) *Determination of age.* The decedent's age as of the decedent's date of death for purposes of valuing the hypothetical life annuity is the decedent's attained age (in whole years) as of the decedent's date of death. For example, if the decedent was born on February 2, 1930, and died on August 3, 1990, the decedent's age for purposes of valuing the hypothetical life annuity is 60.

(c) *Interest rate assumptions.* The present value of the single life annuity described above must then be calculated using the interest rate and mortality assumptions in § 20.2031-7 of the Estate Tax Regulations in effect on the date of death.

d-8. Q. Are any credits, deductions, exclusions, etc. that apply for estate tax purposes allowable as an offset against the excise tax under section 4981A(d) for excess accumulations?

A. No. No credits, deductions, exclusions, etc. that apply for estate tax purposes are allowed to offset the tax imposed under section 4981A(d). Thus, no credits under section 2010 through 2016 or other reductions permitted by Chapter 11 are allowable against the tax under section 4981A(d) for excess accumulations. For example, no credits are allowable for the unified credit against the estate tax, for state death taxes, or for gift taxes.

d-8A. Q. Is the estate liable for the excise tax of 15 percent on the amount of the decedent's excess accumulations?

A. Yes. In all events, the estate is liable for the excise tax of 15 percent on the amount of the decedent's excess accumulations. Transferee liability rules under chapter 11 do apply, however. Similarly, the reimbursement provisions of section 2205 also apply. Additionally, the rules generally applicable for purposes of determining the apportionment of the estate tax apply to the apportionment of the excise tax under section 4981A(d). Thus, the decedent's will or the applicable state apportionment law may provide that the executor is entitled to recover the tax imposed under section 4981A(d) attributable to any property from the beneficiary entitled to receive such property. However, absent such a provision in the decedent's will or in the applicable state apportionment law, the executor is not entitled to recover the tax imposed under section 4981A(d) attributable to any property from the beneficiary entitled to receive such property.

d-9. Q. How is the additional tax computed with respect to a decedent's estate under section 4981A(d)?

A. The determination of the additional tax under section 4981A(d) is illustrated by the following examples:

*Example 1.* (a) An individual (A) dies on February 1, 199X at age 70 and 9 months. As of A's date of death, A has an interest in a defined benefit plan described in section 401(a) (Plan X). Plan X has never provided for employee contributions. A has no section 72 (f) investment in Plan X. A does not have any interest in any other qualified employer plan or individual retirement plan. The alternate valuation date in section 2032 does not apply. A did not elect to have the special grandfather rule apply. A's interest in Plan X is in the form of a qualified joint and survivor annuity. The value of the remaining payments under the joint and survivor annuity as of A's date of death (determined under D-5) is \$2,000,000.

(b) Because A is age 70 and 9 months of A's date of death, A's life expectancy as of A's date of death is calculated using age 70 (A's attained age in whole years on A's date of death). The factor from Table A of § 20.2031-7(f) used to determine the present value of a single life annuity for an individual age 70 is 6.0522. The greater of \$150,000 or \$112,500 indexed for 199X is 150,000. The present value of the hypothetical single life annuity is \$907,830 (\$150,000 X 6.0522).

(c) The amount of A's excess accumulation is \$1,092,170, determined as follows: \$2,000,000 (value of A's interest in Plan X) minus \$907,830 (value of hypothetical single life annuity contract) equals \$1,092,170.

(d) The increase in the estate tax under section 4981A(d) is \$163,825 (15 percent of \$1,092,170).

*Example 2.* (a) The facts are the same as in Example 1, except that A's interest in Plan X consists of the following:



(1) \$2,000,000, value of employer-provided portion of a qualified joint and survivor annuity determined as of A's date of death using the interest and mortality assumptions in § 20.2031-7.

(2) \$200,000, proceeds of a term life insurance contract (no cash surrender value before death).

(3) \$100,000, amount (employer-provided portion) payable to A's former spouse pursuant to a QDRO.

(4) \$100,000, amount of A's investment in Plan X.

(b) The value of A's interest in Plan X for purposes of calculating A's excess accumulation is still \$2,000,000. The proceeds of the term life insurance contract, the amount payable under the QDRO, and the amount of A's investment in Plan X are excluded from such value.

*Example 3.* (a) The facts are the same as in *Example 1*, except that A elected the special grandfather rule. A's initial grandfather amount was \$1,100,000. As of A's date of death, A had received \$500,000 in distributions that were treated as a return of A's grandfather amount. Thus, A's unused grandfather amount is \$600,000 (\$1,100,000 - \$500,000). In 199X, assume that \$112,500 indexed is still \$112,500.

(b) A's excess retirement accumulation is determined as follows: \$2,000,000 minus the greater of (1) \$600,000 or (2) the present value of a period certain annuity of \$112,500 a year for 16 years. The present value of a single life annuity of \$112,500 a year for an individual age 70 is determined as follows:  $\$112,500 \times 6.0522 = \$680,827.25$ . \$680,827.25 is greater than \$600,000. Thus the amount of the excess retirement accumulation is \$1,319,173 (\$2,000,000 minus \$680,827).

(c) The additional estate tax under section 4981A(d) is \$197,875 (15 percent of \$1,319,173).

*Example 4.* (a) The facts are the same as in *Example 3* except that, as of A's date of death, A received \$90,000 in distributions that were treated as a return of A's grandfather amount. Thus, A's unused grandfather amount is \$1,010,000 (\$1,100,000 - \$90,000).

(b) A's excess retirement accumulation is determined as follows: \$2,000,000 minus the greater of (1) \$1,010,000 (A's unused grandfather amount) or (2) \$680,827.25 (the present value of a single life annuity of \$112,500 a year for an individual age 70). A's unused grandfather amount is greater than the present value of the hypothetical life annuity. Thus, the amount of the excess retirement accumulation is \$990,000 (\$2,000,000 - \$1,010,000).

(c) The additional estate tax under section 4981A(d) is \$148,500 (15 percent of \$990,000).

*d-10: Q.* If a surviving spouse rolls over a distribution from a qualified retirement plan or an individual retirement plan of the decedent to an individual retirement plan (IRA) established in the spouse's own name, is any distribution in a calendar year from the IRA receiving such rollover included in determining the spouse's excess distribution or excess accumulation in such calendar year?

*A. (a) General rule.* If a surviving spouse rolls over a distribution from a

qualified retirement plan or an individual retirement plan of the decedent to an individual retirement plan (IRA) established in the spouse's own name with the rollover contribution and no other contributions or transfers are made to the IRA receiving the rollover contribution, distributions from such IRA will be excluded in determining the spouse's excess distributions and the value of the IRA will be excluded in determining the spouse's excess accumulation. If the surviving spouse rolls over a distribution from a qualified retirement plan or IRA of the decedent to an IRA for which the spouse has prior contributions or makes additional contributions to the IRA receiving the distribution, distributions from the IRA will be included in determining the amount of the excess distributions received by the spouse for the calendar year of the distribution and the value of the IRA at the applicable valuation date will be included in determining the spouse's excess accumulation.

(b) *Special rules.* The rule in paragraph (a) of this Q&A d-10 also applies if a surviving spouse elects to treat an inherited IRA (described in section 408(d)(3)(C)(ii)) as the spouse's own IRA as long as the surviving spouse makes no further contributions to such IRA.

(c) *Other beneficiaries.* Rules similar to the rules in paragraphs (a) and (b) shall apply to an individual who elected to treat an IRA as subject to the distribution requirements of section 408(a)(6), prior to amendment by section 521(b) of TRA '84, under § 1.408-2(b)(7)(ii) of the Income Tax Regulations.

*d-11. Q.* To what estates does the excise tax under section 4981A(d) apply?

*A.* The excise tax under section 4981A(d) applies to estates of decedents dying after December 31, 1986.

*d-12. Q.* Is the aggregate interest reduced by distributions described in paragraph (b)(1) of Q&A c-6 of this section (distributions prior to January 1, 1988, made on account of certain terminations of a qualified employer plan) which are made after the individual's death.

*A.* Yes, the value of the individual's aggregate interest determined under Q&A d-5 of this section is reduced by distributions described in paragraph (b)(1) of Q&A c-6 of this section which are made after the individual's death.

## PART 26—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

**Par. 3.** The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

### § 602.101 [Amended]

**Par. 4.** Section 602.101 is amended by inserting in the appropriate places in the table, "54.4981A-1T . . . 1545-0203".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) or section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 4981A and 7805 of the Internal Revenue Code of 1954 (100 Stat. 2481, 26 U.S.C. 4981A; 68A Stat. 917, 26 U.S.C. 7805).

Lawrence B. Gibbs,  
Commissioner of Internal Revenue.

Approved: November 23, 1987.

O. Donaldson Chapoton,  
Assistant Secretary of the Treasury.  
[FR Doc. 87-28401 Filed 12-9-87; 8:45 am]  
BILLING CODE 4830-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 110

[CGD13 85-07]

### Anchorage Grounds; Columbia River, OR and WA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Port of Portland, Oregon, and several other Lower Columbia River ports, the Coast Guard is amending the anchorage regulations for the Lower Columbia River by expanding and renaming the existing anchorage grounds near Astoria, Oregon, and by adding seven new anchorages between Longview, Washington, and Vancouver, Washington. The new anchorages are located as follows:

1. Between the Port of Longview docks and the main ship channel;
2. Along Sandy Island across the main ship channel from Kalama, Washington;
3. North of Sandy Island across the main ship channel from Columbia City, Oregon;



4. Along Sauvie Island across the main ship channel from Bachelor Point;
5. Across the main ship channel from Sauvie Island near Hewlett Point;
6. Between Kelley Point and the main ship channel; and
7. Along Hayden Island across the main ship channel from the Port of Vancouver.

Expansion of the anchorage grounds is being accomplished to enhance the ports' ability to efficiently and economically handle existing shipping and to provide sufficient space to accommodate increases in shipping anticipated over the next 20 years.

**EFFECTIVE DATE:** January 11, 1988.

**FOR FURTHER INFORMATION CONTACT:** CDR N. S. PORTER, U.S. Coast Guard Marine Safety Office, 6767 North Basin Avenue, Portland, Oregon 97217, (503) 240-9317.

**SUPPLEMENTARY INFORMATION:** On November 18, 1986, the Coast Guard published a Notice of Proposed Rulemaking in the *Federal Register* for these regulations (51 FR 41642). Interested persons were requested to submit comments and eight comments were received.

#### Drafting Information

The drafters of these regulations are CDR N. S. PORTER, USCG, Project Officer, Marine Safety Office Portland, Oregon, and LCDR L. I. KIERN, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office, Seattle, Washington.

#### Discussion of Comments

Eight comments were received in response to the Notice of Proposed Rulemaking. Of these, seven were fully supportive of the proposal and urged its adoption without change. Commentors in this group included the Portland Steamship Operators Association, the Columbia River Pilots, the Oregon Public Ports Association, the Pacific Northwest Waterways Association and the Lower Columbia River Ports of Portland, Vancouver and Kalama. The eighth comment received conveyed a strong objection only to the proposed anchorage along Sandy Island across the main ship channel from Kalama, Washington. The commenter in this case was a commercial drift fisherman who has traditionally fished along Sandy Island in an area at least partially covered by the proposed Kalama Anchorage. The commenter stated that any ship anchored in this area would disrupt his ability to fish and therefore to make a living. In response to this comment, the Coast Guard contacted the Port of Kalama, the Columbia River

Pilots, and two other drift fishermen who work the Kalama area. Discussions with these organizations and individuals have led the Coast Guard to conclude that the proposed anchorage can exist without significant impact on the commenter's ability to fish. This conclusion was based on the projected utilization of the anchorage (both frequency and length of stay), the relatively short fishing seasons involved, and the willingness of port and steamship officials to work with the commenter to resolve any conflicts in anchorage use.

In view of the concerns expressed over conflicting utilization of the Kalama Anchorage, the Coast Guard intends to actively monitor use of this anchorage, involve itself as necessary in the resolution of conflicts, and make such corrections to the regulations as may be required to minimize the economic impacts on all parties.

#### Economic Assessment and Certification

These regulations are considered to be nonmajor under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Although expansion of the Lower Columbia River Anchorage Grounds has the potential for adversely affecting the commercial fishing industry, these rules have been drafted so as to minimize those effects. Additionally, the primary users of the new anchorage areas have indicated their desire and intent to work with the commercial fishing industry to eliminate any conflicts which may arise over competing uses of the areas.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 110

Anchorage grounds.

#### Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended as follows:

#### PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471; 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 110.228 is revised to read as follows:

#### § 110.228 Columbia River, Oregon and Washington.

(a) *The anchorage grounds.*—(1) *Astoria North Anchorage.* An area enclosed by a line beginning north of Astoria, Oregon, at latitude 46°11'47" N, longitude 123°49'39" W; thence continuing northerly to latitude 46°12'05" N, longitude 123°49'35" W; thence northeasterly to latitude 46°13'16" N, longitude 123°46'23" W; thence southerly to latitude 46°13'01" N, longitude 123°46'12" W; thence southwesterly to latitude 46°11'52" N, longitude 123°49'13" W; thence westerly to the point of beginning.

(2) *Astoria South Anchorage.* An area enclosed by a line beginning north of Astoria, Oregon, at latitude 46°11'38" N, longitude 123°48'59" W; thence continuing northerly to latitude 46°11'47" N, longitude 123°49'08" W; thence northeasterly to latitude 46°13'03" N, longitude 123°45'50" W; thence northeasterly to latitude 46°13'07" N, longitude 123°45'37" W; thence southerly to latitude 46°12'56" N, longitude 123°45'30" W; thence southwesterly to latitude 46°12'24" N, longitude 123°46'33" W; thence southwesterly to latitude 46°12'07" N, longitude 123°47'24" W; thence southwesterly to the point of beginning.

(3) *Longview Anchorage.* An area enclosed by a line beginning southeast of Longview, Washington, at latitude 46°07'15" N, longitude 122°59'08" W; thence continuing northeasterly to latitude 46°07'23" N, longitude 122°58'56" W; thence southeasterly to latitude 46°06'58" N, longitude 122°58'20" W; thence southeasterly to latitude 46°06'42" N, longitude 122°57'56" W; thence southerly to latitude 46°06'33" N, longitude 122°58'04" W; thence westerly to latitude 46°06'35" N, longitude 122°58'10" W; thence northwesterly to latitude 46°06'42" N, longitude 122°58'23" W; thence northwesterly to the point of beginning.

(4) *Kalama Anchorage.* An area enclosed by a line beginning northeast of Sandy Island at latitude 46°00'59" N, longitude 122°51'31" W; thence continuing southeasterly to latitude 46°00'55" N, longitude 122°51'27" W; thence southeasterly to latitude 46°00'36" N, longitude 122°51'11" W; thence southerly to latitude 45°59'42" N, longitude 122°50'48" W; thence westerly to latitude 45°59'39" N, longitude 122°50'59" W; thence northerly to latitude 46°00'35" N, longitude 122°51'26" W; thence northwesterly to latitude 46°00'52" N, longitude 122°51'41" W; thence northeasterly to the point of beginning.



(5) *Woodland Anchorage*. An area enclosed by a line beginning east of Columbia City, Oregon, at latitude 45°53'56" N, longitude 122°48'13" W; thence continuing easterly to latitude 45°53'58" N, longitude 122°47'58" W; thence southerly to latitude 45°53'29" N, longitude 122°47'41" W; thence westerly to latitude 45°53'21" N, longitude 122°47'59" W; thence northerly to latitude 45°53'42" N, longitude 122°48'09" W; thence northerly to the point of beginning.

(6) *Henrici Bar Anchorage*. An area enclosed by a line beginning near the mouth of Bachelor Slough at latitude 45°47'25" N, longitude 122°46'45" W; thence continuing southeasterly to latitude 45°46'46" N, longitude 122°46'10" W; thence southeasterly to latitude 45°46'26" N, longitude 122°45'56" W; thence southerly to latitude 45°46'04" N, longitude 122°45'46" W; thence southerly to latitude 45°45'42" N, longitude 122°45'41" W; thence southerly to latitude 45°45'38" N, longitude 122°45'41" W; thence westerly to latitude 45°45'38" N, longitude 122°45'48" W; thence northerly to latitude 45°46'17" N, longitude 122°46'06" W; thence northwesterly to latitude 45°47'21" N, longitude 122°46'55" W; thence northeasterly to the point of beginning.

(7) *Willow Bar Anchorage*. An area enclosed by a line beginning northeast of Reeder Point at latitude 45°43'41" N, longitude 122°45'36" W; thence continuing easterly to latitude 45°43'40" N, longitude 122°45'26" W; thence southerly to latitude 45°41'28" N, longitude 122°46'12" W; thence westerly to latitude 45°41'30" N, longitude 122°46'22" W; thence northerly to the point of beginning.

(8) *Kelley Point Anchorage*. An area enclosed by a line beginning east of Kelley Point at latitude 45°39'07" N, longitude 122°45'36" W; thence continuing northeasterly to latitude 45°39'11" N, longitude 122°45'32" W; thence southerly to latitude 45°39'03" N, longitude 122°45'17" W; thence westerly to latitude 45°38'58" N, longitude 122°45'22" W; thence northerly to the point of beginning.

(9) *Hayden Island Anchorage*. An area enclosed by a line beginning south of Mathews Point at latitude 45°38'44" N, longitude 122°44'35" W; thence continuing easterly to latitude 45°38'27" N, longitude 122°43'21" W; thence southeasterly to latitude 45°38'12" N, longitude 122°43'03" W; thence westerly to latitude 45°38'19" N, longitude 122°43'40" W; thence northwesterly to latitude 45°38'42" N, longitude 122°44'36" W; thence northeasterly to the point of beginning. (b) *The regulations*.

(1) All designated anchorages are intended for the primary use of deep-draft vessels over 200 feet in length.

(2) If a vessel under 200 feet in length is anchored in a designated anchorage, the master or person in charge of the vessel shall:

(i) Ensure that the vessel is anchored so as to minimize conflict with large, deep-draft vessels utilizing or seeking to utilize the anchorage; and

(ii) Move the vessel out of the area if requested by the master of a large, deep-draft vessel seeking to enter or depart the area or if directed by the Captain of the Port.

(3) No vessel may occupy a designated anchorage for more than 30 consecutive days without a permit from the Captain of the Port.

(4) No vessel being layed-up or dismantled or undergoing major alterations or repairs may occupy a designated anchorage without a permit from the Captain of the Port.

(5) No vessel carrying a Cargo of Particular Hazard listed in § 126.10 of this chapter may occupy a designated anchorage without permission from the Captain of the Port.

(6) No vessel in a condition such that it is likely to sink or otherwise become a hazard to the operation of other vessels shall occupy a designated anchorage except in an emergency and then only for such periods as may be authorized by the Captain of the Port.

(7) Except as allowed for emergencies, no vessel may occupy either the Henrici Bar or Willow Bar Anchorages during the commercial drift fishing seasons established by the Oregon Department of Fish and Wildlife (ODFW). Vessels occupying either of these anchorages at the time a drift fishing season is announced must depart prior to commencement of the season. In no case, however, shall a vessel have less than 48 hours to effect the move.

(8) ODFW will normally notify the Captain of the Port four days in advance of any commercial drift fishing season. Once notified, the Captain of the Port will inform the Portland Steamship Operators Association (PSOA) via the Merchant's Exchange and will notify the Columbia River and Bar Pilots.

Dated: December 1, 1987.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 87-28375 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL-3290-9]

### Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

**SUMMARY:** On May 7, 1984, and January 23, 1986, the State of Indiana submitted to USEPA a proposed revision to the Indiana Lead (Pb) State Implementation Plan (SIP) in order to satisfy the requirements of 40 CFR 51.18(a) through (i) and 51.18(k)<sup>1</sup> for a general new source review (NSR) program, as well as the Federal requirements for a Pb NSR program. On November 19, 1986 (51 FR 41809), USEPA proposed approval of the NSR program for Pb in the Federal Register. No public comments were received by the Agency on this action. USEPA approves this NSR program in today's Federal Register for the pollutant Pb as meeting the requirements of 40 CFR 51.160 through 51.163 and 51.165(b). In a letter dated March 12, 1987, Indiana committed that it would use USEPA's July 8, 1985 (50 FR 27892), stack height rules to meet the NSR stack height requirements of section 123 of the Clean Air Act (Act) and 40 CFR 51.164. When USEPA takes final action on this commitment as it applies to the Pb NSR program, it will also rulemake on whether Indiana NSR program meets the requirements of 40 CFR 51.164 for Pb.

**EFFECTIVE DATE:** This final rulemaking becomes effective on January 11, 1988.

**ADDRESSES:** Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Anne E. Tenner, at (312) 886-6034, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

<sup>1</sup> On November 7, 1986 (51 FR 40655), USEPA rewrote and recodified 40 CFR Part 51 (1986), including the NSR requirements in § 51.18. The NSR requirements to which USEPA is comparing Indiana's program are those which were codified at 40 CFR 51.18(a) through (i) and (k) and will be codified as 40 CFR 51.160 through 51.163 and 51.165(b). For purposes of clarity, these sections will be referred to as 40 CFR 51.160 through 51.163 and 51.165(b) in today's notice.



Indiana Department of Environmental Management, Office of Air Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis Indiana 46206-6015

A copy of today's revision to the Indiana SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Anne E. Tenner, (312) 886-6034.

**SUPPLEMENTARY INFORMATION:** On May 7, 1984, the State of Indiana submitted Rule 325 IAC 2-1.1 to USEPA as a proposed revision to the Indiana Pb SIP in order to satisfy the requirements of 40 CFR 51.160 through 51.163 and 51.165(b) for a general NSR program, as well as the Federal requirements for a Pb NSR program. On January 23, 1986, the State submitted to USEPA an amended version of the Pb NSR rules which addressed certain deficiencies in the previous Pb NSR rules.

In today's rulemaking action, USEPA is approving this as a revision to the Indiana SIP for Pb as requested by the State of Indiana. The Pb NSR rules are discussed in detail below. However, USEPA wishes to clarify that this rulemaking action pertains only to the Pb NSR requirements. USEPA will rulemake on Indiana's NSR rules as they apply to other pollutants at a later date.

The amended rules are consistent with USEPA policy (memorandum dated April 8, 1980, from Richard G. Rhoads, Director, Control Programs Development Division, to Directors, Air and Hazardous Materials Divisions) which states that the NSR requirements of the Pb SIP may be satisfied by requiring review of all sources which have the potential to emit Pb in excess of 5 tons per year.

These amended rules are also consistent with USEPA's policy on Pb plans which requires review of any modification to a source with actual emissions in excess of 5 tons per year of Pb, if the modification would result in a net increase of 0.6 or more tons of Pb per year of potential emissions. (See pp. 4-23 in "Updated Information on Approval and Promulgation of Pb Implementation Plans," dated July 1983). As a result, USEPA is approving Indiana Rule 325 IAC 2-1.1 as meeting the new source review requirements in 40 CFR 51.160 through 51.163 for new sources of Pb.

Additionally, USEPA is approving Indiana Rule 325 IAC 2-1.1 as meeting the requirements of 40 CFR 51.165(b) for Pb. Paragraph (b) requires a provision in a permit or equivalent program which satisfies the requirements of section

110(a)(2)(D)(i) of the Act for major new sources and major modifications of existing sources in attainment or unclassified areas. Section 110(a)(2)(D)(i) of the Act requires that SIPs have a program to enforce emission limits and regulations with respect to the construction, modification and operation of "major emitting facilities" to achieve and maintain National Air Quality Standards (NAAQS).

A "major emitting facility," according to section 302(j) of the Act, is any source which emits or has the potential to emit 100 tons per year or more of any pollutant. The State rule in section (1)(a)(1) and section (1)(b)(1)(A) requires all sources with potential emissions of 25 tons per year or more to apply for and receive a construction or operating permit from the State. The 25-ton-per-year cut-off is more stringent than the 100 tons-per-year Federal cut-off.

The construction permit program in section 3(b)(1) of Indiana Rule 325 IAC 2-1.1 requires a demonstration that the NAAQS and the Prevention of Significant Deterioration (PSD) increments will be maintained before a permit can be issued. The operating permit program implements this on the state level by requiring adherence to the construction permit conditions and the State's emission rules. Furthermore, section 5(a) of the State rule allows the State of Indiana to place emission limits in construction and operating permits for the protection of the NAAQS and PSD increments. Because operating permits issued by a State are not federally enforceable per se, all emission limitations and other requirements established by an Indiana operating permit, which are not reflected in the underlying construction permit or US EPA approved SIP, must be submitted as site-specific SIP revisions as provided in 325 IAC 2-1.1-5(a)(3) and 2-1.1-12. These provisions to section 3(b)(1) and section 5(a) provide the State with enforcement provisions that are needed to protect the NAAQS and PSD increments as required by the section 110(a)(2)(D)(i) of the Act.

On November 19, 1986 (51 FR 41809), USEPA proposed approval in the Federal Register of the Indiana Pb SIP as satisfying all of the requirements of 40 CFR 51.160 through 51.163 and 51.165(b) for a general NSR program, as well as the Federal requirements for a Pb NSR program. No public comments were received by the Agency on this action. USEPA is approving Indiana Rule 325 IAC 2-1.1 as meeting all of the requirements of 40 CFR 51.160 through 51.163 and 51.165(b) for Pb.

In a letter dated March 12, 1987, Indiana committed that it would use

USEPA's July 8, 1985 (50 FR 27892), stack height rules to meet the NSR stack height requirements of Section 123 of the Clean Air Act and 40 CFR 51.164 for all pollutants. When USEPA takes final action on this commitment, it will also rulemake on whether Indiana's NSR program meets the requirements of 40 CFR 51.164 for Pb.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 8, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Lead.

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 6, 1987.

Lee M. Thomas,  
Administrator.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Subpart P—Indiana

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.770 is amended by adding paragraph (c)(64) to read as follows:

#### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(64) On January 23, 1986, the State of Indiana submitted to USEPA a revision to the Indiana Lead State Implementation Plan in order to satisfy the requirements of 40 CFR 51.160 through 51.163 and 51.165(b) (formerly 40 CFR 51.18 (a) through (i) and 51.18(k)) for a new source review program, USEPA approved this revision for lead new source review only.

(i) Incorporation by reference.

(A) Construction and Operating Permit Requirements, 325 IAC 2-1.1 promulgated on January 8, 1986.



(B) Letter of November 17, 1987, to EPA from the Indiana Department of Environmental Management.

[FR Doc. 87-6265 Filed 12-9-87; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 52

[FRL-3297-8; TN-043]

### Approval and Promulgation of Implementation Plans, Tennessee; Murray Ohio Manufacturing Company Variance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA today approves a request by Tennessee that a temporary variance granted to Murray Ohio Manufacturing Company ("Murray Ohio") to use non-complying coatings on its bicycle coating operations be incorporated into the Tennessee State Implementation Plan (SIP). These operations are governed by Rule 1200-3-18-.21 of the Tennessee Air Pollution Control Regulations (Surface Coating of Miscellaneous Metal Parts). The variance extends until November 18, 1987, or until a revision exempting bicycle coatings is effective, whichever is sooner. The Tennessee Air Pollution Control Board has approved a revision to Rule 1200-3-18-.21 to exempt bicycle coating. The revision will not become effective until it completes the State rulemaking process. EPA will act on the exemption of bicycle coating in a separate notice.

**DATES:** This action will become effective on February 8, 1988, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Written comments should be addressed to Melinda Privott of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Environmental Protection Agency,  
Region IV, Air Programs Branch, 345  
Courtland Street NE., Atlanta, Georgia  
30365

Tennessee Air Pollution Control  
Division, Customs House, 4th Floor,  
701 Broadway, Nashville, Tennessee  
37219

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street SW., Washington, DC 20460

**FOR FURTHER INFORMATION CONTACT:**  
Melinda Privott, Air Programs Branch,

EPA Region IV, at the above address and telephone number 404/347-2864 or FTS 257-2864.

**SUPPLEMENTARY INFORMATION:** Murray Ohio manufactures lawn mowers and bicycles at its plant in Lawrenceburg, Tennessee. This facility is the only bicycle manufacturer in Tennessee. Lawrence County is an unclassified area for ozone.

Painting bicycles is currently governed by Rule 1200-3-18-.21 (Surface Coating of Miscellaneous Metal Parts) of the Tennessee Air Pollution Control Regulations. The Tennessee Air Pollution Control Board has approved a proposal to add bicycles to the list of products and metal parts exempted from the emission limitations for volatile organic compounds (VOCs) set forth in Rule 1200-3-18-.21. EPA will act on this amendment in a separate notice.

Since December, 1980, Murray Ohio has installed electrostatic bell sprayers, reciprocators and AGC spray guns. On July 9, 1985, Murray Ohio began operating an electronic reciprocating system and photoelectric light curtain. These systems reduce overspray by sensing the size and shape of the part being painted and positioning the spray guns for more efficient paint coverage. Together these systems increase transfer efficiency and thus reduce emissions.

Murray Ohio is implementing a program to switch to high solids paints for its lawn mower manufacturing operation at Lawrenceburg. However, due to the required quality of the finishes on its bicycles, Murray Ohio cannot use high solids paint to manufacture bicycles. High solids coatings tend to show an "orange peel" texture which is unacceptable on bicycles. The irregular and unusual shapes of bicycle parts do not lend themselves to easy high solids application. The cost of removing the solvents through engineering controls is prohibitive.

For more detailed information, please refer to the Technical Support Document. This document is available for inspection at the EPA Region IV office.

#### Final Action

EPA approves the SIP revision for the Murray Ohio temporary variance which allows for the use of noncomplying coatings in its bicycle coating operations. This action is being taken without prior proposal because the change is noncontroversial and EPA anticipates no comments on it. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However if notice is received within 30 days that

someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 8, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

**Note.**—The Director of the Federal Register approved the incorporation by reference of the Tennessee SIP on July 1, 1982.

Date: November 27, 1987.

Lee M. Thomas,  
Administrator.

Part 52 of Chapter I Title 40, Code of Federal Regulations, is amended as follows:

#### Subpart RR—Tennessee

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.2220 is amended by adding paragraph (c)(78) to read as follows:

#### § 52.2220 Identification of plan.

(c) \* \* \*

(78) A variance from Rule 1200-3-18-.21 was submitted to EPA on December 30, 1986, by the Tennessee Department of Health and Environment.

(i) Incorporation by reference.

(A) A variance for coating bicycles at Murray Ohio Manufacturing Company granted by the Tennessee Department of Health and Environment Air Pollution Control Board, approved on November 19, 1986.

(iii) Additional material—none.

[FR Doc. 87-27653 Filed 12-9-87; 8:45 am]

BILLING CODE 6560-50-M



# NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1805, 1807, 1808, 1809, 1812, 1813, 1815, 1827, 1830, 1831, 1832, 1836, 1837, 1852, and 1853

[NASA FAR Supplement Directive 85-9]

## Miscellaneous Amendments to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA

ACTION: Final Rule.

**SUMMARY:** This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes implementing higher level issuances dealing with NASA internal or administrative matters.

**EFFECTIVE DATE:** December 15, 1987.

**FOR FURTHER INFORMATION CONTACT:** W. A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-2119.

### SUPPLEMENTARY INFORMATION:

#### Background

The major changes involve: (1) Contracting officer authority and responsibilities, (2) synopsisizing unsolicited proposals, (3) acquisition planning, (4) profit policy, (5) rights in data and copyrights, (6) cost accounting standards, (7) customary progress payment rates, and (8) ACH method of vendor payment.

#### Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The regulations herein are in the exempted category. NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulation imposes no burdens on the public within the ambit of the Paper Work Reduction Work Act, as implemented at 5 CFR Part 1320, except for background items 5 and 8 to which approval numbers 2700-0052, and 2700-0055 apply, respectively.

List of Subjects in 48 CFR Parts 1801, 1805, 1807, 1808, 1809, 1812, 1813, 1815, 1827, 1830, 1831, 1832, 1836, 1837, 1852, and 1853

## Government procurement.

S. J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1805, 1807, 1808, 1809, 1812, 1813, 1815, 1827, 1830, 1831, 1832, 1836, 1837, 1852, and 1853 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

## PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Part 1801 is amended as set forth below:

a. In Subpart 1801.1, 1801.105-1 is revised to read as follows:

### 1801.105-1 NASA FAR Supplement requirements.

The following OMB control numbers apply:

NASA FAR supplement segment	OMB control number
18-12.....	2700-0056
18-23.....	2700-0051
18-27.....	2700-0052
18-32.....	2700-0055
18-43.....	2700-0054
NF 533.....	2700-0003
NF 667.....	2700-0004
NF 1018.....	2700-0017

b. In Subpart 1801.6, 1801.670 is revised to read as follows:

### 1801.670 Delegation of procurement responsibilities.

(a) Delegations to non-GS/GM-1102 or 1105 personnel.

(1) Contracting officer duties are typically performed by GS/GM-1102 or 1105 personnel within the procuring organization. In certain limited situations, it may be appropriate to designate non-GS/GM-1102 or 1105 personnel as contracting officers. The authority to obligate appropriated funds for the procurement of supplies and/or services may be delegated to non-GS/GM-1102 or 1105 personnel; provided all of the following conditions are met:

(i) A contracting officer warrant must be issued to the non-GS/GM-1102 or 1105 individual. The warrant must include a specific dollar limitation set as low as possible, but, in any event, the limitation shall not exceed the small purchase threshold in effect at the time of the delegation. Specific dollar limitations well below the small purchase threshold should normally be sufficient and are encouraged. The warrant may include further limitations, such as the types of supplies or services that may be acquired.

(ii) Only the procurement officer at each installation is authorized to issue or terminate contracting officer warrants to non-GS/GM-1102 or 1105 personnel. This authority is non-delegable.

(iii) Contracting officer warrants for non-GS/GM-1102 or 1105 personnel may only be issued for small purchase procedures (FAR Part 13 and NASA FAR Supplement Part 1813). These procedures include executing purchase orders and modifications to purchase orders. Authority to issue and/or sign contracts, unilateral or bilateral contract modifications of any amount, or to issue orders above the small purchase threshold on Federal Supply Schedules is not delegable to non-GS/GM-1102 or 1105 personnel.

(iv) The selection, appointment, and termination of appointment procedures for contracting officers in 1801.603 shall be followed. In particular, the education, training, and experience requirements for a basic-level contracting officer (see 1801.603-2(e)) must be met prior to issuance of a warrant. The experience requirement at 1801.603-2(e)(1)(i)(A) may be obtained either within a procurement office or in an office that otherwise does procurement work. For example, a training specialist may acquire the experience requirement by preparing in the center personnel office purchase orders for training that will be signed by a warranted contracting officer.

(2) The responsibility for monitoring the procurements made by non-GS/GM-1102 or 1105 contracting officers remains with the procurement officer who issues the warrants. The procurement officer is responsible for ensuring that a system is in place that provides for general oversight of the continued need for each specific warrant and periodic review of the quality of the procurement actions taken. These reviews shall be made no less frequently than semiannually.

(3) Examples of contracting officer designations that may be appropriate to non-GS/GM-1102 or 1105 personnel are the authorization to the center training officer to sign purchase orders for "off-the-shelf" training courses under a certain dollar amount or to the center librarian to place orders up to \$X for magazine subscriptions.

(4) The requirements for use of imprest funds are established by the NASA Financial Management Manual and do not require contracting officer warrants or authority.

(5) The term "ordering officer" is not authorized for use in delegating



procurement functions to non-GS/GM-1102 or 1105 personnel.

(b) *Delegations to contracting officer technical representatives (COTRs).* A COTR delegation shall be made only by the contracting officer cognizant of that contact at the time the delegation is made. In the event of the absence of the cognizant contracting officer, the delegation letter may be signed by a warranted contracting officer one level above the cognizant contracting officer. An individual COTR shall have only the duties specifically identified in a written delegation to him or her by name (i.e., COTR duties may not be delegated to a position) and shall not have any legal authority to exceed these duties. COTRs should be informed that they may be personally liable for unauthorized commitments. Contracting officer authority to sign or authorize contractual instruments shall not be delegated through a COTR designation or any means other than a contracting officer warrant. However, delegations may be made to construction contract COTRs to sign emergency change orders with an estimated value not to exceed \$2,500 on-site at construction sites.

#### **PART 1805—PUBLICIZING CONTRACT ACTIONS**

3. Subpart 1805.2 is amended by revising 1805.202 to read as follows:

##### **1805.202 Exceptions.**

(a) Under FAR 15.507(b)(4), the contracting officer must comply with the preaward synopsis requirement at FAR 5.201 for all unsolicited proposals which will result in contracts, unless evaluation on a case-by-case basis determines that one of the exceptions contained in FAR 5.202 (e.g., 5.202(a)(8)) applies. The synopsis contemplated for such unsolicited proposals is the notice of proposed contract action synopsis, addressed by FAR 5.201, not the research and development sources-sought synopsis addressed by FAR 5.205. Where award of an unsolicited proposal is intended to be accomplished by other than full and open competition (FAR 6.302.1(a)(2)(i)), the notice of proposed contract action synopsis shall include reference to Numbered Note 22 unless no synopsis is required pursuant to FAR 5.202(a)(8), because a synopsis cannot be drafted without improperly disclosing the originality of thought or innovativeness of the proposed research, or without disclosing proprietary information associated with the proposal.

(b) With careful drafting, it should usually be possible to develop a notice of contract action synopsis which

generically describes the NASA requirement fulfilled by the unsolicited proposal without disclosing the originality of thought, innovativeness, or proprietary information contained in that proposal. Generally, the contracting officer, in developing such synopses, will find it possible to address the general or research area addressed in the unsolicited proposals. In a few instances, the mere statement in a notice of contract action synopsis that a particular problem and solution exist would improperly disclose a proposer's unique originality of thought or innovativeness; in those cases, the exception in FAR 5.202(a)(8) would apply, and no CBD synopsis need be accomplished. Thus, the requirement is to publish CBD notice of contract action synopses whenever it is possible to synopsise without improperly disclosing originality of thought, innovativeness of proposed research, or proprietary information associated with the unsolicited proposal.

(c) The phrase "proprietary information" as used at FAR 5.202(a)(8) means information (data) that constitutes a trade secret and/or information that is commercial or financial and confidential or privileged.

#### **PART 1807—ACQUISITION PLANNING**

4. In 1807.103, paragraph (b)(2) is revised to read as follows:

##### **1807.103 Agency-head responsibilities.**

\* \* \* \* \*

(b) \* \* \*

(2) Examples of what is meant by the phrase "including the aggregate amount of follow-on contracts" appearing in paragraph (b)(1) above are—

(i) Options as defined in FAR Subpart 17.2; and

(ii) Later phases of the same project.

\* \* \* \* \*

5. Subpart 1807.71 is amended as set forth below:

##### **1807.7102 [Amended]**

a. In 1807.7102(a) introductory text, the word "or" preceding the word "aggregate" is removed, and the words "including the" are inserted in its place.

b. In 1807.7102, paragraph (d)(1) is removed and paragraphs (d) (2) and (3) are redesignated (d) (1) and (2), respectively.

#### **PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

##### **1808.302 [Removed]**

6. Subpart 1808.3 is amended by removing 1808.302.

#### **PART 1809—CONTRACTOR QUALIFICATIONS**

##### **1809.106-7204 [Amended]**

7. Subpart 1809.1 is amended by revising, in 1809.106-7204(a)(2)(ii), the reference "1827.473" to read "FAR 27.409."

#### **PART 1812—CONTRACT DELIVERY OR PERFORMANCE**

##### **1812.104-70 [Amended]**

8. In 1812.104-70(b), the reference "1827.475-10" is revised to read "1827.406(b)."

#### **PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES**

9. Subpart 1813.2 is amended by adding 1813.204 and 1813.205 to read as follows:

##### **1813.204 Purchases under blanket purchase agreements.**

Non-GS/GM-1102 or 1105 personnel shall not be authorized to place orders under a BPA in amounts greater than \$1,000 for an individual order. A contracting officer warrant is not required to place an order under a BPA; however, individuals must be specifically authorized, in writing, by the contracting officer. This authority to place orders should be revoked immediately upon evidence of abuse.

##### **1813.205 Review procedures.**

The procurement officer is responsible for ensuring that orders placed under BPAs are reviewed at least semiannually to ascertain that appropriate procedures are being followed and that prices obtained are fair and reasonable.

#### **PART 1815—CONTRACTING BY NEGOTIATION**

##### **1815.413-2 [Amended]**

10. In 1815.413-2(e), the references "1827.473-2(k)" and "1852.227-81" are revised to read "FAR 27.407" and "FAR 52.227-23," respectively.

11. In 1815.970, the introductory material to paragraph (f) is revised to read as follows:

##### **1815.970 NASA structured approach for profit or fee objective.**

\* \* \* \* \*

(f) The structured approach was designed for arriving at profit or fee objectives for commercial organizations (FAR Subpart 31.2). However, if appropriate adjustments are made, the structured approach can be used as a basis for arriving at fee objectives for



nonprofit organizations (FAR 31.7), excluding educational institutions (FAR 31.3). It is NASA policy not to pay profit or fee on contracts with educational institutions. Therefore, the structured approach, as modified in paragraph (f)(2) below, shall be used for nonprofit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the fee objective for commercial organizations as calculated under the structured approach.

## PART 1827—PATENTS, DATA, AND COPYRIGHTS

12. Part 1827 is amended by revising Subpart 1827.4 to read as follows:

### Subpart 1827.4—Rights in Data and Copyrights

- 1827.404—Basic rights in data clause.
- 1827.405—Other data rights provisions.
- 1827.406—Acquisition of data.
- 1827.408—Cosponsored research and development activities.
- 1827.409—Solicitation provisions and contract clauses.

### Subpart 1827.4—Rights in Data and Copyrights

#### 1827.404 Basic rights in data clause.

(a) *Alternate definition of limited-rights data.* When the clause at 52.227-14, Rights in Data-General, is used with Alternate I but without Alternate II or Alternate III, all data that qualifies as limited-rights data as defined in Alternate I may be withheld from delivery, and any study or report delivered under the contract will contain only unlimited rights data that may be disseminated by NASA. If delivery of such withholdable data is required, Alternate II or Alternate III, as applicable, may be used, but any data subject to such alternates will be delivered under the applicable limited-rights or restricted-rights notices and therefore may not be disclosed outside NASA except to the extent permitted by such notices (see FAR 27.404 (d) and (e)).

(b) *Protection of limited-rights data specified for delivery.* The contracting officer shall consult with the installation Patent or Intellectual Property Counsel regarding any questions concerning the delivery of limited-rights data and/or the use of Alternate II that may arise from an offeror's response to the provision at FAR 52.227-15, Representation of Limited-Rights Data and Restricted Computer Software, or that may arise during negotiations.

(c) *Protection of restricted computer software specified for delivery.* The

contracting officer shall consult with the Installation Patent or Intellectual Property Counsel regarding any questions concerning the delivery of restricted computer software, and/or the use of Alternate III that may arise from an offeror's response to the provision at FAR 52.227-15, Representation of Limited-Rights Data and Restricted Computer Software or that may arise during negotiations.

(d) *Copyrighted data.* (1) The contracting officer shall consult with installation Patent or Intellectual Property Counsel prior to granting in accordance with FAR 27.404(f)(ii) permission for a contractor to establish claim to copyright subsisting in data, other than computer software, first produced under the contract. For copyright of computer software first produced under contract, see paragraph (e) below.

(2) Obtaining a copyright license of a different scope than set forth in either subparagraph (c)(1) or subparagraph (c)(2) of the clause at 52.227-14, Rights in Data—General, for any contract or class of contracts in accordance with either FAR 27.404(f)(1)(iv) or FAR 27.404(f)(2)(i) is permitted only with approval of the Procurement Officer and concurrence of installation Patent or Intellectual Property Counsel.

(e) *Release, publication, and use of data.* (1) The NASA subparagraph (d)(3) added to paragraph (d) of the clause at FAR 52.227-14, Rights in Data—General, is for all contracts except contracts for basic or applied research with universities or colleges. The subparagraph provides that the contractor will not establish claim to copyright, publish, or release to others computer software first produced in the performance of this contract without prior written permission of the contracting officer. This is in accordance with NASA policy and procedures for the distribution of computer software developed by NASA and its contractors, as set forth in NASA Management Instruction 2210.2, NASA Scientific and Technical Information Handbook.

(2) The contracting officer may, in consultation with the installation Patent or Intellectual Property Counsel, grant the contractor permission to copyright, publish, or release to others computer software first produced in the performance of a contract in the following situations:

(i) Where the contractor has identified an existing or proposes a new commercial computer software product line and states a positive intention of incorporating any computer software first produced under the contract into the such-identified existing or proposed

new commercial computer software product line, either directly itself or through a licensee;

(ii) Where the contractor has made, or will be required to make, significant contributions to the development of the computer software by co-funding or by cost-sharing, or by contribution of resources (including but not limited to agreement to provide continuing maintenance and update of the software at no cost for Governmental use); or

(iii) In any other situation where the concurrence of a cognizant official named in NMI 2210.2 or the Director, Technology Utilization Division, NASA Headquarters, has been obtained.

(3) The request for permission by the contractor in accordance with paragraph (a) above may be made either prior to contract award or during contract performance. Any permission granted in accordance with paragraphs (e)(2) (i) or (ii) above shall be by express contract provisions (or amendment) overriding paragraph (d)(3) rather than by deleting paragraph (d)(3) from the clause. Any permission granted in accordance with paragraph (e)(2)(iii) above may be by either deleting paragraph (d)(3) or by special contract provisions, as appropriate. Any contract provisions relating to any permission granted in accordance with paragraphs (e)(2) (i) or (ii) above may contain appropriate assurances that the computer software will be incorporated into an existing or proposed new commercial computer software product line within a reasonable time and/or the agreed contributions to the Government are fulfilled, with contingencies enabling the Government itself to obtain the right to distribute the software for commercial use, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor. Also, when any permission to copyright is granted, any copyright license retained by the Government shall be of the same scope as set forth in subparagraph (c)(1) of the clause (see also FAR 27.404(f)(1) and without any obligation of confidentiality on the part of the Government, unless in accordance with paragraph (e)(2)(ii) above the contributions of the Contractor may be considered "substantial" for the purposes of FAR 27.408 (i.e., approximately 50 percent), in which case rights consistent with FAR 27.408 may be negotiated for the computer software in question.

(f) *Unauthorized marking of data.* The contracting officer shall consult with installation Patent or Intellectual



Property Counsel prior to taking any action regarding unauthorized markings of data under paragraph (e) of the clause at 52.227-14, Rights in Data—General.

(g) *Omitted or incorrect notices.* The contracting officer shall consult with installation Patent or Intellectual Property Counsel prior to agreeing to add or correct, or adding or correcting, any markings on data under paragraph (f) of the clause at 52.227-14, Rights in Data—General.

#### 1827.405 Other data rights provisions.

(a) *Acquisition of existing computer software.* (1) When the clause at 52.227-19, Commercial Computer Software—Restricted Rights, is used, NASA paragraph (e) may be added to receive updates, correction notices, consultation information, and other similar information on any computer software delivered under the purchase order or contract by authorizing the NASA contracting officer or the NASA contract technical representative/user to sign any vendor supplied agreements, registration forms, or cards and return them directly to the vendor. This procedure is to facilitate receiving applicable information and is not intended to alter any of the rights or obligations of NASA set forth in the clause or elsewhere in the contract. The price, schedule, and other terms, if any, are to be specified in the purchase order or contract.

(2) When the clause at 52.227-19, Commercial Computer Software—Restricted Rights, is used, NASA paragraph (f) may be added to incorporate those portions of the Contractor's standard commercial license or lease agreement into the purchase order/contract to the extent consistent with the clause, Federal laws, standard industry practices, and the Federal Acquisition Regulation (FAR).

(3) Instead of the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights (either with or without additional subparagraphs (e) and/or (f)), the contracting officer may use the NASA clause at 1852.227-86, Commercial Computer Software—Licensing. This clause is particularly useful where there are multiple computers on which the computer software may be used, but simultaneous use is prohibited or restricted in the vendor/contractor standard commercial software license to be incorporated in and made part of the purchase order/contract. It also automatically adapts terms in the vendor/contractor standard commercial license that may be less restrictive than those set forth in the clause at FAR 52.227-19 without having to customize that clause or modify the

purchase order/contract. In addition, it enables the vendor/contractor's standard marking to be used without requiring additional markings on the software.

(b) *Contracts awarded under Small Business Innovative Research (SBIR) Program.* If during the performance of an SBIR contract (Phase I or Phase II) the need arises for NASA to obtain delivery of restricted computer software as defined in the clause at FAR 52.227-20, Rights in Data—SBIR Program and the Contractor agrees to such delivery, the restricted computer software may be acquired with restricted rights by modification of the contract or under an agreement incorporated in and made part of the contract, using the restricted rights set forth in FAR 27.404(e) and the related restrictions as a guide.

#### 1827.406 Acquisition of data.

(a) *General.* When specifying data delivery requirements in accordance with FAR 27.406(a), requirements for delivery of technical data relating to standard commercial items, components, or processes should be kept to the absolute minimum consistent with the purpose for which such item, component, or process is being procured. Normally a vendor's manuals for installation, operation, or maintenance and repair and/or form, fit, and function data are adequate for most needs.

(b) *Reports of work.* (1) In addition to any other data delivery requirements that may be set forth in the contract consistent with FAR 27.406, a NASA contractor normally should be required to furnish reports or work performed under research and development contracts (fixed-price and cost reimbursement) and also may be required to furnish such reports in cost-reimbursement supply contracts if considered desirable for monitoring contract performance. This purpose shall be achieved by including the following general requirements, modified as needed to meet the particular requirements of the contract, in the section of the contract specifying data delivery requirements:

(i) *Monthly progress reports.* The contractor shall submit separate monthly progress reports of all work accomplished during each month of contract performance. Reports shall be in narrative form and brief and informal in content. They shall include a quantitative description of overall progress, an indication of any current problems which may impede performance, proposed corrective action, and a discussion of the work to be performed during the next monthly

reporting period. (Normally, this requirement should not be used in contracts with non-profit organizations.)

(ii) *Quarterly progress reports.* The contractor shall submit separate quarterly reports of all work accomplished during each three-month period of contract performance. In addition to factual data, these reports shall include a separate analysis section which interprets the results obtained, recommends further action, and relates occurrences to the ultimate objectives of the contract work. Sufficient diagrams, sketches, curves, photographs, and drawings shall be included to convey the intended meaning.

(iii) *Final report.* The contractor shall submit a final report which documents and summarizes the results of the entire contract work, including recommendations and conclusions based on the experience and results obtained. The final report shall include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to explain comprehensively the results achieved under the contract.

(iv) *Report documentation page.* The contractor shall include a completed Report Documentation Page (NASA Form 1626) as the final page of each report submitted in accordance with paragraphs (b)(1) (i) through (iii) above.

(v) *Submission.* The required numbers of copies of the reports specified in paragraphs (b)(1)(i) through (iii) shall be submitted to the technical monitor of the contract in the absence of other instructions from the requesting activity. In addition, a reproducible copy and a printed, or reproduced, copy of the reports shall be sent to: NASA Scientific and Technical Information Facility, Attn: Accessioning Department, P.O. Box 8757, Baltimore/Washington International Airport, MD 21240.

(2) The contracting officer shall consider the desirability of providing reports on the completion of significant units or phases of work, in addition to periodic reports and reports on the completion of the entire contract. The data delivery requirements section of the contract shall also list other data to be delivered under the contract and provide, as necessary, specific instructions regarding delivery, submission dates, report numbering, numbers of copies to be submitted, distribution lists, and any other information to ensure appropriate distribution for the required reports of work.



**1827.408 Cosponsored research and development activities.**

The contracting officer shall consult with installation Patent or Intellectual Property Counsel prior to limiting the acquisition of or acquiring less than unlimited rights to any data developed under contracts involving cosponsored research and development activities in accordance with FAR 27.408.

**1827.409 Solicitation provisions and contract clauses.**

(a) Alternate I is to be used with the FAR clause at 52.227-14, Rights in Data—General, only with approval of the Procurement Officer and concurrence of installation Patent or Intellectual Property Counsel. An example of its use is where the principal purpose of the contract (such as a contract for basic or applied research) does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or under any anticipated follow-on contracts relating to the same subject matter). Other examples include socio-economic studies or reports, educational material, health and safety information, management analyses, and related matters, the preparation of which may involve confidential business information, that qualifies as limited rights-data as defined by Alternate I.

(b) The specific purposes for the release of limited-Rights data outside of the Government set forth in paragraphs (d)(1)(i) through (v) of FAR 27.404 are to be added to the Limited-Rights Notice of subparagraph (g)(2) of Alternate II of the clause at FAR 52.227-14, Rights in Data—General. However, the contracting officer may, upon consultation with installation Patent or Intellectual Property Counsel, make deletions from the specific purposes listed. If all are deleted, the word "None" must be inserted in the notice. Additions to those specific purposes listed may be made only with the approval of the installation Procurement Officer and concurrence of installation Patent or Intellectual Property Counsel.

(c) The contracting officer shall consult with installation Patent or Intellectual Property Counsel regarding the acquisition of restricted computer software with greater or lesser rights than those normally set forth in Alternate III of the FAR clause at 52.227-14, Rights in Data—General, in accordance with FAR 27.404(e)(2). Where it is impractical to actually modify the notice of Alternate III, this may be done by express reference in a separate clause in the contract or

collateral agreement that addresses the change in the restricted rights.

(d) Use of Alternate IV in the FAR clause at 52.227-14, Rights in Data—General, in any contract other than a contract for basic or applied research to be performed solely by colleges and universities on campus (but not for the management or operation of Government facilities) is permitted only with approval of the Procurement Officer and concurrence of installation Patent or Intellectual Property Counsel.

(e) In accordance with 1827.404(e)(1), the contracting officer shall add subparagraph (d)(3) to paragraph (d) of the clause at FAR 52.227-14, Rights in Data—General, except in solicitations and contracts for basic or applied research with universities or colleges.

(f) In accordance with 1827.405(a)(1), the contracting officer shall add paragraph (e) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights, when it is contemplated that updates, correction notices, consultation information, and other similar information relating to commercial computer software delivered under a purchase order or contract are available and receipt of such information can be facilitated by signing a vendor supplied agreement, registration forms, or cards and returning them directly to the vendor.

(g) In accordance with 1827.405(a)(2), the contracting officer shall add paragraph (f) as set forth in 1852.227-19 to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights when portions of a Contractor's standard commercial license or lease agreement consistent with the clause, Federal laws, standard industry practices, and the Federal Acquisition Regulation (FAR) are to be incorporated into the purchase order or contract.

(h) In accordance with 1827.405(a)(3), the contracting officer shall use the clause at 1852.227-86, Commercial Computer Software—Licensing, when it is considered appropriate for the acquisition of existing computer software in accordance with FAR 27.405(b)(2).

**PART 1830—COST ACCOUNTING STANDARDS**

13. Part 1830 is amended as set forth below:

a. In Subpart 1830.1, 1830.101 is revised to read as follows:

**1830.101 Cost accounting standards.**

(a) To assure uniform administration of CAS requirements, NASA has determined to consider all of its

contracts as "National defense" contracts for CAS purposes, whether or not they meet the definitions of "National defense" in FAR 2.101.

b. Subpart 1830.2 is added to read as follows:

**Subpart 1830.2—CAS Program Requirements****1830.201-5 Waiver.**

After the contracting officer has made the determination required by FAR 30.201-5(a), the Procurement Officer shall forward all requests for waiver of CAS requirements to the Assistant Administrator for Procurement (Code HC) for approval.

**Subpart 1830.3 [Removed]**

c. Subpart 1830.3 is removed.

14. Part 1831 is revised to read as follows:

**PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES****Subpart 1831.1—Applicability**

1831.101 Objectives.

**Subpart 1831.2—Contracts With Commercial Organizations**

1831.205 Selected costs.

1831.205-32 Precontract costs.

**Subpart 1831.1—Applicability**

1831.101 Objectives.

Requests for individual deviations to FAR cost principles under FAR 31.101 shall be forwarded for the approval of the Assistant Administrator for Procurement through the Director, Contract Pricing and Finance Division (Code HC).

**Subpart 1831.2—Contracts With Commercial Organizations**

1831.205 Selected costs.

1831.205-32 Precontract costs.

See 1832.705 for NASA policy on precontract costs.

**PART 1832—CONTRACT FINANCING**

15. Part 1832 is amended as set forth below:

a. In 1832.111-70, paragraph (d) is revised to read as follows:

1832.111-70 NASA contract clauses.

\* \* \* \* \*

(d) The contracting officer shall insert the clause at 1852.232-78, Payment Information, in all solicitations and contracts, including those for small purchases.

\* \* \* \* \*



**1832.501-170 [Removed]**

b. In Subpart 1832.5, 1832.501-170 is removed.

c. In Subpart 1832.7, 1832.705-270 is revised to read as follows:

**1832.705-270 Additional clauses for limitation of cost or funds.**

(a) The contracting officer shall insert the clause at 1852.232-77, Limitation of Funds (Fixed-Price Contract), in fixed-price incrementally funded contracts for research and development, and solicitations therefor.

(b) The contracting officer shall insert the clause at 1852.232-80, Date of Incurrence of Costs, in cost-reimbursement contracts for which specific coverage of precontract costs is authorized under FAR 31.205-32.

**PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

16. Part 1836 is amended as set forth below:

a. In Subpart 1836.3, 1836.370 is revised to read as follows:

**1836.370 Solicitation provisions.**

(a) The contracting officer shall insert the provision at 1852.236-71, Additive or Deductive Items, in invitations for bids for construction when it is desired to add or deduct bid items to meet available funding.

(b) The contracting officer shall insert the provision at 1852.236-72, Bids with Unit Prices, in invitations for bids for construction when the invitation contemplates unit prices of items. The provision shall be inserted at the end of the Supplies or Services and Prices/ Costs section, or similar location, in the invitation.

**1836.770 [Removed]**

b. In Subpart 1836.7, 1836.770 is removed.

**PART 1837—SERVICE CONTRACTING****1837.106 [Removed]**

17. Subpart 1837.1 is amended by removing 1837.106.

**PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

18. Part 1852 is amended as set forth below:

**1852.208-7000 and 1852.208-7001 [Removed]**

a. Reserved sections 1852.208-7000 and 1852.208-7001 are removed.

b. Section 1852.208-7002 is revised to read as follows:

**1852.208-7002 Rates.**

As prescribed in 188.309(a), insert the following clause.

**Rates (December 1987)**

(a) For and in consideration of the faithful performance of this contract, the Contractor shall be paid at the rates set out in Appendix A, provided that the Government shall be liable for the minimum monthly charge, if any, specified in this contract commencing with the billing period in which service is initially furnished and continuing until this contract is terminated, except that the minimum monthly charge, if any, specified in this contract shall be equitably prorated for the billing periods in which commencement and termination of this contract become effective.

(b) The Contractor hereby declares that the rates applicable to the service furnished under this contract are not in excess of the lowest rates available to any prospective customer under like conditions, and agrees that during the life of this contract the Government shall continue to be billed at the lowest rates applicable for similar conditions of service.

(End of Clause)

c. Sections 1852.208-7007, 1852.208-7008, 1852.7009, and 1852.208-7010 are revised to read as follows:

**1852.208-7007 Renewal of contract.**

As prescribed in 1808.309(f), insert the following clause.

**Renewal of Contract (December 1987)**

This contract is renewable on an annual basis at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor at least \_\_\_\_\_ days before expiration. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed \_\_\_\_\_ years.

(End of clause)

**1852.208-7008 Change in rates.**

As prescribed in 1808.309(b), insert the following clause in lieu of the clause in 1852.7003.

**Change in rates (December 1987)**

(a) If at any time during the term of this contract either of the parties considers it appropriate that all or part of the rates applicable to the service furnished under this contract be changed, the parties agree to promptly negotiate such rates upon receipt by one party of a written request from the other (1) Specifying the rates to which a change is considered appropriate, (2) setting forth the proposed change in rates, and (3) stating in detail the reasons for the proposed changes. Any rate changes agreed to by the parties as the result of such negotiations shall be made a part of this contract by the issuance of a supplemental agreement and shall become effective as of the date of the request for a change in rates, unless otherwise agreed.

(b) The Contractor agrees that a duly authorized representative of NASA shall have access to and the right to examine any pertinent books, documents, papers, or records of the Contractor relating to costs that form the basis for the rate.

(End of clause)

**1852.208-7009 Connection charge.**

As prescribed in 1808.309(g), insert the following clause.

**Connection Charge (December 1987)**

(a) *Charge.* The Government, in consideration of the furnishing and installation by the Contractor at the Contractor's expense of the New Facilities described in Appendix C, attached hereto and made a part hereof, shall pay the Contractor, as a connection charge, after receipt of satisfactory evidence of completion of the facilities, the sum \$ \_\_\_\_\_, representing the sum of \$ \_\_\_\_\_, less the agreed salvage value in the amount of \$ \_\_\_\_\_, as shown in Appendix C; provided that, as a condition precedent to final payment, the Contractor shall execute a release acceptable to the Contracting Officer of claims against the Government arising under or by virtue of such installation.

(b) *Ownership, operation, and maintenance of new facilities to be provided.* The facilities to be supplied by the Contractor under this clause, notwithstanding the payment by the Government of a connection charge, shall be and remain the property of the contractor and shall, at all times during the life of this contract or any renewals thereof, be operated and maintained by the Contractor at its expense, and all taxes and other charges in connection therewith, together with all liability arising out of the construction, operation, or maintenance of such facilities, shall be the obligation of the Contractor.

(c) *Credits.* (1) The Contractor agrees to allow the Government on each monthly bill for service furnished under this contract to the Service Location, a credit of \_\_\_\_\_ percent of the amount of each such bill as rendered until the accumulation of credits shall equal the amount of such connection charge, provided that the contractor may at any time allow a credit up to 100 percent of the amount of each such bill.

(2) In the event the Contractor, before any termination of this contract but after completion of the facilities provided for in this clause, serves any customer other than the Government (regardless of whether the Government is being served simultaneously, intermittently, or at all) by means of such facilities, the corresponding benefit to the Contractor is hereby recognized. It is therefore agreed that upon initiation of such service, the Contractor shall promptly pay in full to the Government the uncredited balance of the connection charge, or accelerate the credits provided for under subparagraph (c)(1) of this clause to 100 percent of each monthly bill until there is fully credited a sum equitably representing the same proportion of the uncredited balance of the connection charge as of the date of initiation of such service, as agreed upon by the parties hereto, as the portion of



the facilities utilized in serving such customer bears to complete facilities described in Appendix C.

(d) *Termination before completion of facilities.* The Government reserves the right to terminate this contract at any time before completion of the facilities with respect to which the Government is to pay a connection charge. In the event the Government exercises this right, the Contractor shall be paid fair compensation, exclusive of profit, with respect to such facilities.

(e) *Termination after to completion of facilities—(1) Termination by the Government.* In the event the Government terminates this contract after completion of the facilities with respect to which the Government is to pay a connection charge, but before the crediting in full by the Contractor of any connection charge in accordance with the terms of this contract, the possible continued usefulness of such facilities is hereby recognized. It is, therefore, agreed that upon such termination the Contractor shall have the following options:

(i) To retain in place for twelve months or more after the notice of termination by the Government such facilities on condition that: (A) If, during such twelve month period, the Contractor serves any other customer by means of such facilities, the Contractor shall, in lieu of allowing credits, pay the Government during such period installments in like amount, manner, and extent as the credit provided for under paragraph (c) of this clause before such termination and (B) immediately after such twelve-month period the Contractor shall promptly pay in full to the Government the uncredited balance of the connection charge.

(ii) To remove such facilities at the Contractor's own expense within twelve months after the effective date of the termination by the Government; provided, that if the Contractor elects to so remove such facilities, the Government shall then have the option of purchasing such facilities at the agreed salvage value set forth in Appendix C; and provided further, that the Contractor shall, at the direction of the Government, leave in place such facilities located on Government property which the Contractor elects to remove and which the Government elects to purchase at the agreed salvage value.

(2) *Termination by the contractor.* In the event the Contractor terminates service under, or otherwise defaults in performance of, this contract before the crediting in full, in accordance with the terms of this contract, of any connection charge paid by the Government, the Contractor shall pay to the Government an amount equal to the uncredited balance of the connection charge as of the date of such termination.

(End of clause)

#### 1852.208-7010 Termination charge.

As prescribed in 1808.309(h), insert the following clause and attach Appendix C to the contract when a payment is to be made to the contractor upon termination of service in lieu of a connection charge upon completion of the facilities. The length of time, not in excess of 60

months, as negotiated with the contractor will be entered in the first blank. In the second blank enter the amount of the maximum termination charge as negotiated with the contractor, but not in excess of cost of facilities furnished and installed by the contractor less the agreed salvage value, as shown in Appendix C. Enter in the third blank the figure obtained by dividing the figure in the second blank by the figure in the first blank. The use of this clause does not affect the term of the contract; however, its use is subject to Headquarters approval in accordance with 1808.307-71.

#### Termination charge (December 1987)

In consideration of the furnishing and installation by the Contractor at its expense of the New Facilities described in Appendix C, attached hereto and made a part hereof the Government shall, in the event of termination of this contract by the Government before \_\_\_\_\_ months from the date on which service commences, pay the Contractor as a termination charge \_\_\_\_\_ less \_\_\_\_\_ multiplied by the number of months service has been received after the date of such termination.

(End of clause)

#### 1852.223-3 and 1852.223-370 (Removed)

d. Sections 1852.223-3 and 1852.223-370 are removed.

e. Sections 1852.227-14, 1852.227-19, and 1852.227-86 are added to read as follows:

#### 1852.227-14 Rights in data—general.

As prescribed in 1827.409(e), modify the clause at FAR 52.227-14 by adding the following subparagraph (d)(3):

(d)(3) The Contractor agrees not to establish claim to copyright nor to publish or release to others any computer software first produced in the performance of this contract without the prior written permission of the Contracting Officer.

#### 1852.227-19 Commercial computer software—restricted rights.

(a) As prescribed in 1827.409(f), modify the clause at FAR 52.227-19, by adding the following paragraph (e):

(e) For the purpose of receiving updates, correction notices, consultation information, or other similar information on any computer software delivered under this contract/purchase order, the NASA Contracting Officer or the NASA Contract Technical Representative/User may sign any vendor supplied agreements, registration forms, or cards and return them directly to the vendor; however, such signing shall not alter any of the rights or obligations of either NASA or the vendor set forth in this clause or elsewhere in this contract/purchase order.

(b) As prescribed in 1827.409(g), modify the clause at FAR 52.227-19 by adding the following paragraph (f):

(f) Subject to the above paragraphs of this clause, those applicable portions of the Contractor's standard commercial license or lease agreement pertaining to any computer software delivered under this purchase order/contract that are consistent with Federal laws, standard industry practices and the Federal Acquisition Regulation (FAR) shall be incorporated into and made part of this purchase order/contract.

#### 1852.227-86 Commercial computer software—licensing.

As prescribed in 1827.409(h), insert the following clause:

#### Commercial Computer Software—Licensing (December 1987)

(a) Any delivered commercial computer software (including documentation thereof) developed at private expense and claimed as proprietary shall be subject to the restricted rights in paragraph (d) below. Where the vendor/contractor proposes its standard commercial software license, those applicable portions thereof consistent with Federal laws, standard industry practices, the Federal Acquisition Regulations (FAR) and the NASA FAR Supplement, including the restricted rights in paragraph (d) below, are incorporated into and made a part of this purchase order/contract.

(b) Although the vendor/contractor may not propose its standard commercial software license until after this purchase order/contract has been issued, or at or after the time the computer software is delivered, such license shall nevertheless be deemed incorporated into and made a part of this purchase order/contract under the same terms and conditions as in paragraph (a) above. For purposes of receiving updates, correction notices, consultation, and similar activities on the computer software, the NASA Contracting Officer or the NASA Contractor Technical Representative/User may sign any agreement, license, or registration form or card and return it directly to the vendor/contractor; however, such signing shall not alter any of the terms and conditions of this clause.

(c) The vendor's/contractor's acceptance is expressly limited to the terms and conditions of this purchase order/contract. If the specified computer software is shipped or delivered to NASA, it shall be understood that the vendor/contractor has unconditionally accepted the terms and conditions set forth in this clause, and that such terms and conditions (including the incorporated license) constitute the entire agreement between the parties concerning rights in the computer software.

(d) The following restricted rights shall apply:

(1) The commercial computer software may not be used, reproduced, or disclosed by the Government except as provided below or otherwise expressly stated in the purchase order/contract.

(2) The commercial computer software may be—

(i) Used, or copied for use, in or with any computer owned or leased by, or on behalf of, the Government; provided, the software is



not used, nor copied for use, in or with more than one computer simultaneously, unless otherwise permitted by the license incorporated under paragraphs (a) or (b) above;

(ii) Reproduced for safekeeping (archives) or backup purposes;

(iii) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software shall be subject to the same restricted rights; and

(iv) Disclosed and reproduced for use by Government contractors or their subcontractors in accordance with the restricted rights in subdivisions (i), (ii), and (iii) above; provided they have the Government's permission to use the computer software and have also agreed to protect the computer software from unauthorized use and disclosure.

(3) If the incorporated vendor's/contractor's software license contains provisions or rights that are less restrictive than the restricted rights in subparagraph (d)(2) above, then the less restrictive provisions or rights shall prevail.

(4) If the computer software is published, copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the rights in subparagraphs (d)(2) and (3) above.

(5) The computer software may be marked with any appropriate proprietary notice that is consistent with the rights in subparagraphs (d)(2), (3), and (4) above.

#### 1852.231-70 and 1852.231-71 [Removed]

g. Sections 1852.231-70 and 1852.231-71 are removed.

h. Section 1852.232-16-70 is added and sections 1852.232-71, and 1852.232-78 are revised to read as follows:

#### 1852.232-16-70 NASA modifications.

When using the clause at FAR 52.232-16 in—

(a) Competitive procurements (RFPs when adequate price competition is expected and IFBs) and other procurements when paragraph (2) below does not apply, replace the first sentence of that clause with the following:

Progress payments shall be made to the Contractor as work progresses within 30 days after receipt of each progress payment request, which may not be submitted more frequently than monthly, in amounts approved by the Contracting Officer, under the following conditions:

(b) Negotiated procurements when the price is based on cost analysis and frequency of payment requests was considered in the negotiation (see 1815.970-1(c)(2)), replace the first sentence of that clause with the following:

Progress payments shall be made to the Contractor as work progresses within 30 days after the receipt of each progress payment request in amounts approved by the

Contracting Officer under the following conditions:

#### 1852.232-71 Invoices.

As prescribed in 1832.11-70(a), insert the following clause in fixed-price contracts (including letter contracts) and solicitations therefor, except those for construction work, architect-engineer services, or utility services:

#### Invoices (October 1987)

(a)(1) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice must include as applicable the following:

(i) Invoice date.

(ii) Name of Contractor.

(iii) Contract number (including order number, if any), contract line item number, contract description of supplies or services, quantity, contract unit of measure and unit price, and extended total.

(iv) Shipment number and date of shipment (bill-of-lading number and weight of shipment will be shown for shipments or Government bills of lading).

(v) Name and address to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment).

(vi) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice.

(vii) Any other information or documentation required by other provisions of the contract (such as evidence of shipment).

(2) Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified.

(b) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Pub. L. 97-177)—

(1) A proper invoice will be deemed to have been received when it is received by the payment office designated in the contract and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment shall be considered made on the date on which a check for such payment is dated or the date of payment by wire transfer;

(3) Progress payments, if authorized under this contract, are solely for financing purposes and shall not accrue interest under the Prompt Payment Act;

(4) Payment terms (e.g., "net 20") offered by the Contractor will not be deemed a "required payment date;" and

(5) The following periods of time will not be included:

(i) After receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed 15 days (or any lesser period established by this contract).

(ii) Between the date of a notice of any defect or impropriety and the date a proper invoice is received. When the notice is in writing, it shall be considered made on the date shown on the notice.

(End of clause)

#### 1852.232-78 Payment information.

As prescribed at 1832.111-70(d), insert the following clause:

#### Payment Information (November 1987)

(a) Payments under the contract will be made either by check or by wire transfer at the option of the Government.

(b) Within ten (10) days after award, except as provided in paragraph (c) below, the Contractor shall complete the "Company Information" section of the TFS Form 3881, have its financial institution complete the "Financial Institution Information" section, and forward the form to the Contracting Officer.

(c) If a TFS Form 3881, previously submitted to the installation awarding this contract, is still valid, resubmittal is not necessary, unless requested by NASA.

(End of clause)

i. Section 1852.232-80 is added to read as follows:

#### 1852.232-80 Date of incurrence of costs.

As prescribed in 1832.705-270, insert the following clause:

#### Date of Incurrence of Costs (December 1987)

The Contractor shall be entitled to reimbursement for costs incurred in an amount not to exceed \$ \_\_\_\_\_ on or after \_\_\_\_\_ which, if incurred after this contract had been entered into, would have been reimbursable under the provisions of this contract.

(End of clause)

j. Sections 1852.236-70 and 1852.236-71 are revised and 1852.236-72 is added to read as follows:

#### 1852.236-70 Option for supervision and inspection services.

As prescribed in 1836.609-70, insert the following clause.

#### Option for Supervision and Inspection Services (December 1987)

At any time up to 6 months after satisfactory completion and acceptance of the work to be furnished under this contract, the Government at its option, may direct, by a written order, the Contractor to perform any part or all of the supervision and inspection services provided under the specification/work statement. Upon receipt of such direction, the Architect-Engineer shall proceed with such work and services.

(End of clause)

#### 1852.236-71 Additive or deductive items.

As prescribed in 1836.370, insert the following provision:

#### Additive or Deductive Items (December 1987)

The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the first or base bid item, plus or minus (in order or priority listed in the schedule) those additive or deductive bid items providing the most



features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added for each bid if award thereon can be made within such funds. An example for one bid is an amount available of \$100,000 and a bidder's base bid and four successive additives of \$85,000, \$10,000, \$8,000, \$6,000, and \$4,000. In this example, the aggregate amount of the bid for purposes of award would be \$99,000 for the base bid plus the first and fourth additives, the second and third additives being skipped because each of them would cause the aggregate bid to exceed \$100,000. All bids shall be evaluated on the basis of the same additive or deductive bid items. The listed order of priority must be followed only for determining the low bidder. After determination of the low bidder, award in the best interests of the Government may be made to that bidder on its base bid and any combination of its additive or deductive bid for which funds are determined to be available at the time of the award, provided that award of the combination of bid times does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

(End of provision)

#### 1852.236.72 Bids with unit prices

As prescribed in 1836.370(b), insert the following statements at the end of the Supplies or Services and Prices/Costs section, or similar location in the solicitation.

#### Bids With Unit Prices (December 1987)

(a) All extensions of the unit prices bid will be subject to verification by the Government. If there is variation between the unit price and any extended amounts, the unit price will be considered to be the bid.

(b) If a modification to a bid based on unit prices is submitted, which provides for a lump sum adjustment to the total estimated cost, the application of the lump sum adjustment to each unit price in the bid must be stated. If it is not stated, the bidder agrees that the lump sum adjustment shall be applied on a pro rata basis to every unit price in the bid.

(End of Provision)

k. Section 1852.243-70 is revised to read as follows:

#### 1852.243-70 Engineering change proposals.

As prescribed in 1843.205-70, insert the following clause with any appropriate alternates:

#### Engineering Change Proposals (December 1987)

(a) The Contracting Officer may, at any time, request in writing that the Contractor prepare and submit an Engineering Change Proposal (ECP) as that term is defined in DOD-STD-480A. Upon receipt of such a

request, the Contractor shall submit to the Contracting Officer the information specified by, and in the format required by, paragraph 4.6 of DOD-STD-480A.

(b) Any Contractor ECP shall include a "not-to-exceed" price and delivery adjustment or a "not-less-than" price and delivery adjustment acceptable to the Contractor if the Government subsequently orders the ECP. If ordered, the equitable increase to the contract shall not exceed, nor shall the equitable decrease be less than the ECP's not-to-exceed or "not-less-than" amounts, respectively. This paragraph does not preclude any revision(s) or correction(s) of an ECP in accordance with paragraphs 4.10 and 4.11 of DOD-STD-480A. Concurrent with the submission of any ECP under this contract, the Contractor shall, in accordance with FAR 15.804-6, submit to the Contracting Officer a completed Standard Form 1411, Contract Pricing Proposal Cover Sheet. At the time of agreement upon the price of the ECP, the Contractor shall, in accordance with 15.804-2 and 15.804-4, submit to the Contracting Officer a signed Certificate of Current Cost or Pricing Data.

(End of clause)

*Alternate I (December 1987).* As prescribed in 1843.205-70(a), add the following paragraph to the basic clause. (c) If the price adjustment proposed for any Contractor originated ECP (excluding any Government requested ECP or Value Engineering Change Proposal) is \$ \_\_\_\_\_ (percent or contract price) (or \$ \_\_\_\_\_) or less, such change shall be made at no adjustment to the contract price.

(End of clause)

*Alternate II (December 1987).* As prescribed in 1843.205-70(b) substitute the following sentence for the second sentence in paragraph (b) of the basic clause.

Change orders issued in accordance with the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost in the contract Schedule, in the absence of a statement in the change order or other contract modification increasing the estimated cost.

(End of Clause)

#### PART 1853—FORMS

19. Subpart 1853.2 is amended as set forth below

#### 1853.201 [Removed]

a. Section 1853.201 is removed.

#### 1853.246 [Amended]

b. In 1853.246(a), the reference "1846.670-7100" is revised to read "1846.670-1."

[FR Doc. 87-28165 Filed 12-9-87; 8:45 am]

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#### INTERSTATE COMMERCE COMMISSION

#### 49 CFR Parts 1011 and 1152

[Ex Parte No. 274 (Sub-No. 13)]

#### Rail Abandonments; Use of Rights-of-Way as Trails; Supplemental Trails Act Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

**SUMMARY:** The Commission amends its rules governing implementation of section 208 of the National Trails System Act Amendments of 1983, adopted in *Rail Abandonments-Use of Rights-of-Way as Trails*, 2 I.C.C. 2d 591 (1986), and codified at 49 CFR 1152.29, by: (1) Adding trail use certification procedures for nonprotested and protested, but noninvestigated, abandonments; (2) adding certification procedures for serial trail use (*i.e.*, where a successor trail user replaces the original trail user); (3) providing for the acceptance and consideration of late-filed trail use statements where good cause for late filing is demonstrated and the line is still subject to Commission jurisdiction; (4) clarifying the procedures for vacating trail use certificates and issuing abandonment certificates and notices of exemption when trail use terminates; (5) adding trail use certification procedures for proceedings where an abandonment certificate (or decision granting an exemption or notice of exemption) is already issued but the railroad is willing to negotiate an interim trail use agreement; and (6) for clarity, replacing the "feasibility" finding made in Trails Act cases with an "applicability" finding. The Commission also amends its rules governing delegation of authority, codified at 49 CFR Part 1011, by delegating authority to the Director of the Office of Proceedings, to: (a) Make findings on the applicability of the Trails Act; (b) make findings and issue decisions necessary for the orderly administration of section 208; and (c) to issue Certificates of Interim Trail Use or Abandonment and Notices of Interim Trail Use or Abandonment. Appeals of these delegated decisions will be acted on by the entire Commission. These revisions are set forth below.

**EFFECTIVE DATE:** The rules will be effective on January 9, 1988.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar (202) 275-7245. [TDD for hearing impaired: (202) 275-1721].



**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc. in Room 2229 at Commission headquarters).

This action will not have a significant impact on a substantial number of small entities.

This action will enhance the quality of the human environment and energy conservation.

**List of Subjects****49 CFR Part 1011**

Administrative practice and procedure, Authority delegations (Government agencies).

**49 CFR Part 1152**

Administrative practice and procedure, Environmental protection, National Trails System, National Resources, Abandonment and discontinuances, Railroads, Recreation, Recreation areas.

*Decided:* December 2, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee

Secretary.

Title 49, Subtitle B, Chapter X, Parts 1011, and 1152 of the Code of Federal Regulations are amended as follows:

**PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY**

1. The authority citation for 49 CFR Part 1011 continues to read as follows:

**Authority:** 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701, 5 U.S.C. 553.

2. Section 1011.2 is amended by revising paragraph (a)(8) to read as follows:

**§ 1011.2 The Commission.**

(a) \* \* \*

(8) All appeals of initial decisions determining

(i) Whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing).

(ii) Whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d), for purposes of negotiations,

(iii) Whether partially to revoke or to reopen abandonment exemptions

authorized, respectively, under 49 U.S.C. 10505 and 49 CFR Part 1152 Subpart F for the purpose of imposing public use conditions under the criteria in 49 CFR 1152.28, and

(iv) The applicability and administration of the Trails Act [16 U.S.C. 1247(d)] in abandonment proceedings under 49 U.S.C. 10903-04 (and abandonment exemption proceedings) (as set forth in 49 CFR 1011.8(c)(4) and (5).

Appeals on these matters must be filed within 10 days of the date the action is taken, and responses must be filed within 10 days thereafter.

3. Section 1011.8 is amended by adding new paragraphs (c)(4) and (5) to read as follows:

**§ 1011.8 Delegation of authority by the Interstate Commerce Commission to specific bureaus and offices of the Commission.**

(c) \* \* \*

(4) In all abandonment proceedings under 49 U.S.C. 10903-04 (and abandonment exemption proceedings), when an interim trail use statement is filed under 49 CFR 1152.29, determining whether the Trails Act is applicable and issuing Certificates of Interim Trail Use or Abandonment, and in exempt abandonment proceedings, issuing Notices of Interim Trail Use of Abandonment.

(5) In any abandonment proceeding where interim trail use under 49 CFR 1152.29 is an issue, to make such findings and issue decisions as may be necessary for the orderly administration of the trail use statute, 16 U.S.C. 1247(d).

**PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903**

4. The authority citation for 49 CFR Part 1152 is revised to read as follows:

**Authority:** 5 U.S.C. 553, 559 and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10362, 10505 and 10903 *et seq.*

5. Section 1152.25 is amended by revising paragraph (e)(1) to read as follows:

**§ 1152.25 Participation in abandonment or discontinuance proceedings.**

(e) *Appellate procedures*—(1) *Scope of rule.* Except as specifically indicated below, these appellate procedures are to be followed in abandonment and discontinuance proceedings in lieu of the general procedures at 49 CFR 1115. Appeals of initial decisions of the

Director of the Office of Proceedings determining

(i) Whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing);

(ii) Whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations;

(iii) Whether partially to revoke or to reopen abandonment exemptions authorized, respectively, under 49 U.S.C. 10505 and 49 CFR Part 1152 Subpart F for the purpose of imposing public use conditions under the criteria in 49 CFR 1152.28; and

(iv) The applicability and administration of the Trails Act [16 U.S.C. 1247(d)] in abandonment proceedings under 49 U.S.C. 10903-04 (and abandonment exemption proceedings) as set forth in 49 CFR 1011.8(c)(4) and (5) will be acted upon by the entire Commission pursuant to the rule set forth at 49 CFR 1011.2(a)(8).

An original and 10 copies of all appeals, and replies to appeals, under this section should be filed with the Commission.

6. Section 1152.29 is amended by adding new paragraphs (b)(1)(i), (ii) and (iii) to read as follows:

**§ 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.**

(b)(1) \* \* \*

(i) In every proceeding where a Trails Act request is made, the Commission will determine whether the Trails Act is applicable.

(ii) In a nonprotested proceeding, when a timely trail use statement is filed, the Commission, by the 35th day after the abandonment application is filed, will issue a decision that either:

(A) Finds that the Trails Act is not applicable because of failure to comply with the provisions of § 1152.29(a); or

(B) Finds that the Trails Act is applicable and directs the carrier to notify the Commission, within 5 days, about whether it intends to negotiate an agreement.

If the Trails Act is not applicable, or is applicable but the carrier either does not intend to negotiate an agreement, or does not timely notify the Commission of its intention to negotiate, the public convenience and necessity will be found to require or permit abandonment, and a certificate of abandonment will be issued pursuant to § 1152.26(a). If the carrier is willing to negotiate an agreement, and the public convenience



and necessity permit abandonment, the Commission will issue a Certificate of Interim Trail Use or Abandonment by the 45th day after the application is filed.

(iii) In a protested but noninvestigated proceeding, when a timely trail use statement is filed, the initial decision determining that no investigation will be undertaken, which is issued within 45 days after the application is filed, will include a finding that either:

(A) The Trails Act is not applicable because of failure to comply with the provisions of § 1152.29(a); or

(B) The Trails Act is applicable, and directing the carrier to notify the Commission within 10 days about whether it intends to negotiate an agreement.

If the Trails Act is not applicable, or is applicable but the carrier either does not intend to negotiate an agreement, or does not timely notify the Commission of its intention to negotiate, a decision on the merits will be issued under § 1152.26(b)(1). If the carrier is willing to negotiate an agreement, and the public convenience and necessity permit abandonment, the Commission will issue a Certificate of Interim Trail Use or Abandonment by the 75th day after the application is filed.

#### § 1152.29 [Amended]

7. Section 1152.29(b)(1), (2), and (4) are amended by removing the words "must be filed" from each paragraph and inserting in their place in each paragraph the words "are due".

8. Section 1152.29 is amended by adding new paragraphs (b)(6) and (b)(7), by revising paragraphs (c)(2) and (d)(2), and by adding new paragraphs (e), (f), and (g) to read as follows:

#### § 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.

(b) \* \* \*

(6) Late-filed trail use statements must be supported by a statement showing good cause for late filing.

(7) In proceedings where a Trails Act request is made, the Commission will determine whether the Trails Act is applicable.

(c) \* \* \*

(2) The CITU will indicate that interim trail use is subject to future restoration

of rail service, and subject to the user continuing to meet the financial obligations for the right-of-way. The CITU will also indicate that, if the user intends to terminate trail use, it must send the Commission a copy of the CITU and request that it be vacated on a specified date. The Commission will reopen the abandonment proceeding, vacate the CITU, and issue an effective abandonment certificate for the involved portion of the right-of-way. Copies of the abandonment certificate will be sent to:

- (i) The abandonment applicant;
- (ii) The owner of the right-of-way; and
- (iii) The current trail user.

(d) \* \* \*

(2) The NITU will indicate that interim trail use is subject to future restoration of rail service, and subject to the user continuing to meet the financial obligations for the right-of-way. The NITU will also indicate that if the user intends to terminate trail use, it must send the Commission a copy of the NITU and request that it be vacated on a specific date. The Commission will reopen the exemption proceeding, vacate the NITU, and reissue a Notice of Exemption for that portion of the right-of-way. Copies of the reissued Notice of Exemption will be sent to:

- (i) The abandonment exemption applicant;
- (ii) The owner of the right-of-way; and
- (iii) The trail user.

(e) Where late-filed trail use statements are accepted, the Director (or designee) will telephone the railroad to determine whether abandonment has been consummated and, if not, whether the railroad is willing to negotiate an interim trail use agreement. The railroad shall confirm, in writing, its response, within 5 days. If abandonment has been consummated, the trail use request will be dismissed. If abandonment has not been consummated but the railroad refuses to negotiate, then trail use will be denied. If abandonment has not been consummated and the railroad is willing to negotiate, the abandonment proceeding will be reopened, the certificate of abandonment decision granting an exemption or notice of exemption will be vacated, and an appropriate CITU or NITU will be issued. The effective date of the CITU or

NITU will be the same date as the vacated certificate, decision, or notice.

(f) When a trail user intends to terminate trail use and another person intends to become a trail user by assuming financial responsibility for the right-of-way, then the existing and future trail users shall file, jointly:

- (1) A copy of the extant CITU or NITU; and
- (2) A Statement of Willingness to Assume Financial Responsibility by the new trail user.

The parties shall indicate the date on which responsibility for the right-of-way is to transfer to the new trail user. The Commission will reopen the abandonment or exemption proceeding, vacate the existing NITU or CITU; and issue an appropriate replacement NITU or CITU to the new trail user.

(g) In proceedings where a timely trail use statement is filed, but due to either the railroad's indication of its unwillingness to negotiate interim trail use agreement, or its failure to timely notify the Commission of its willingness to negotiate, a certificate of abandonment or an exemption notice or decision is issued instead of a CITU or NITU, and subsequently the railroad and trail use proponent nevertheless determine to negotiate an interim trail use agreement under the Trails Act, then the railroad and trail use proponent must, file a joint pleading requesting that an appropriate CITU or NITU be issued. The Commission will reopen the proceeding, vacate the outstanding certificate, decision or notice (or portion thereof), and issue an appropriate CITU or NITU that will permit the parties to negotiate for a period agreed to by the parties in their joint filing, but not to exceed 180 days, at the end of which, the CITU or NITU will convert into a certificate, decision, or notice permitting abandonment.

#### § 1152.50 [Amended]

9. Section 1152.50(d)(4)(iii) is amended by deleting the words "if interim trail use and rail banking is feasible" from the last sentence of the paragraph and inserting in their place the words "if the Trails Act is applicable."

[FR Doc. 87-28324 Filed 12-9-87; 8:45 am]

BILLING CODE 7035-01-M



# Proposed Rules

Federal Register

Vol. 52, No. 237

Thursday, December 10, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Parts 3, 208, 236, 242, and 253

[Order No. 1238-87]

#### Aliens and Nationality; Asylum and Withholding of Deportation Procedures

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notification of supplemental proposed rulemaking.

**SUMMARY:** The Department of Justice is announcing that it intends to modify a proposed rule requiring that asylum and withholding of deportation claims be adjudicated in a nonadversarial setting by Asylum Officers within INS. The modification, which is in response to a substantial number of adverse comments, will provide for continued adversarial adjudication of asylum and withholding of deportation applications by Immigration Judges in the context of exclusion or deportation proceedings.

**FOR FURTHER INFORMATION CONTACT:** For General Information: Richard A. Sloan, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 633-3048. For Specific Information: Ralph Thomas, Deputy Assistant Commissioner, Refugee, Asylum, and Parole, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 633-5463; or Robert C. Hill, Deputy Director and Counsel, Asylum Policy and Review Unit, Office of Legal Policy, Department of Justice, 10th and Constitution Ave., NW., Room 6213, Washington, DC 20530. Telephone: (202) 633-2415; or Gerald Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 2 Skyline, 5203 Leesburg Pike, Falls Church, Virginia 22041. Telephone: (703) 756-6470.

**SUPPLEMENTARY INFORMATION:** On August 28, 1987, the Immigration and Naturalization Service published in the Federal Register (52 FR 32552) a proposal to amend the procedures to be used in determining asylum under section 208 and withholding of deportation under section 243(h) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. The proposed rule would have required, *inter alia*, that asylum and withholding of deportation claims be adjudicated in a nonadversarial setting by Asylum Officers within the INS. Upon consideration of a substantial number of comments adverse to this part of the proposed rule, the Department of Justice intends to modify the rule to provide for continued adversarial adjudications of asylum and withholding of deportation applications by Immigration Judges for those aliens who are in deportation and exclusion proceedings. A revised proposed regulation will be published for notice and comment when the revisions are completed.

Dated: November 12, 1987.

Edwin Meese III,  
Attorney General.

[FR Doc. 87-28289 Filed 12-9-87; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 87-CE-36-AD]

#### Airworthiness Directives; Partenavia Costruzione Aeronautiche, S.p.A., Models P 68, P 68B, P 68C, P 68C-TC, P 68 "Observer", and P 68-TC "Observer" Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Partenavia Costruzione Aeronautiche, S.p.A., Models P 68, P 68B, P 68C, P 68C-TC, P 68 "Observer", and P 68-TC "Observer" airplanes, which would require initial and recurring visual or non-destructive inspection of the engine mounting brackets, repair or replacement if

corrosion or cracking is found, and modification of the airplane to provide inspection access. Fourteen reports of cracks and corrosion have been received by the manufacturer. Undetected corrosion or cracks can result in structural failure of the engine mounts, while mode flutter, and subsequent loss of the airplane. Inspection, repair, or replacement proposed by this AD will prevent structural failure of the engine mounts.

**DATES:** Comments must be received on or before January 28, 1988.

**ADDRESSES:** Partenavia Costruzione Aeronautiche, S.p.A. Service Bulletin No. 70, Revision 1, dated May 13, 1987, applicable to this AD may be obtained from Partenavia Costruzione Aeronautiche, S.p.A., Via Cava, Casoria-Naples, Italy; Telephone 81 759-0946. This information may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-36-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Munro Dearing, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000, Brussels, Belgium; Telephone 513.38.30, ext. 2710/2711; or Mr. John P. Dow, Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments



are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

#### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-36-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

#### Discussion

Partenavia issued S/B 70 dated November 21, 1986, applicable to Model P 68, P 68B, P 68C, P 68C-TC, P 68 "Observer," and P 68-TC "Observer" airplanes based on one report of corroded or cracked engine mount brackets. The FAA determined at that time that the unsafe condition addressed by Partenavia S/B 70 was not likely to exist or develop in other products of the same type design. An additional thirteen reports of corrosion and cracks were subsequently received including areas not previously reported. As a result of these additional reports, the FAA has determined that if the cracks and corrosion addressed in these reports remain undetected, catastrophic failure of the engine mount may occur resulting in possible whirl mode flutter and loss of the airplane. Partenavia Costruzione Aeronautiche, S.p.A. issued Partenavia S/B No. 70, Rev. 1, dated May 13, 1987, which describes initial and recurrent visual or non-destructive inspection and modification to install inspection holes and repair or replacement of engine mount brackets if corrosion or a crack is found. The Registro Aeronautico Italiano (RAI), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy, has classified Partenavia S/B No. 70, Rev. 1, dated May 13, 1987, and RAI AD No. 87-141/P.68-36, Rev. 2, dated August 31, 1987, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of RAI combined with FAA review of pertinent documentation in finding compliance of

the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Partenavia S/B No. 70, Rev. 1, dated May 13, 1987, the mandatory classification of this S/B by the RAI, as well as the information available concerning additional reports of corrosion and cracks in the engine mount brackets. Based on the foregoing, the FAA believes that the condition addressed by Partenavia S/B No. 70, Rev. 1, dated May 13, 1987, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require initial and recurrent visual and non-destructive inspection, modification, and repair or replacement of the engine mount brackets on Partenavia Model P 68, P 68B, P 68C, P 68C-TC, P 68 "Observer," and P 68-TC "Observer" airplanes.

The FAA has determined there are approximately 70 airplanes affected by the proposed AD. The cost of inspecting and modifying these components due to the proposed AD is estimated to be \$2,216 per airplane initially, and \$80 thereafter per inspection. The total initial cost is estimated to be \$155,120 to the private sector.

The cost of compliance with the proposed AD is so small that it will not be a significant financial impact on any small entities operating these airplanes. Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

**Partenavia Costruzione Aeronautiche, S.p.A.:**  
Applies to Models P 68, P 68B, P 68C, P 68C-TC, P 68 "Observer", and P 68-TC "Observer" airplanes certificated in any category.

**Compliance:** Required initially within 6 calendar months after the effective date of this AD unless already accomplished within the last 24 calendar months preceding the effective date of this AD, and thereafter at intervals not to exceed 24 calendar months or 500 hours time-in-service (TIS), whichever occurs first.

To prevent engine mount failure, whirl mode flutter, and structural failure of the wing, accomplish the following:

(a) Inspect the upper and lower engine mounts and attachments in accordance with the procedures described in Section 1 of Partenavia Service Bulletin (S/B) No. 70, Rev. 1, dated May 13, 1987.

(1) If no surface corrosion is found, repeat the inspection at the interval specified above.

(2) If surface corrosion extending no deeper than 75/1000 (7.5%) of the original local thickness is found, before further flight repair using procedures described in Section 1 of Partenavia S/B No. 70, Rev. 1, dated May 13, 1987.

(3) If any crack or corrosion extending deeper than 75/1000 (7.5%) of the original local thickness is found including blistering, pitting, or flaking, before further flight remove affected part and replace with a serviceable part as described in Section 2 of Partenavia S/B No. 70, Rev. 1, dated May 13, 1987.

(b) Within one week following each inspection specified in paragraph (a) of this AD, submit a written report of the result of that inspection to include whether or not damage was found, part number(s) involved, extent, location, and description of any damage found, and a brief description of remedial measures. Submit the reports to the FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106. If an inspection was made previous to this AD, forward the requested data within 1 week of receipt of this AD. (Report approved by the Office of Management and Budget under OMB No. 2120-0056.)

(c) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000, Brussels, Belgium; Telephone (322) 513.3830 ext. 2710/2711. All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Partenavia Costruzione Aeronautiche, S.p.A., Via Cava, Casoria-Naples, Italy; Telephone 81 759-0946 (Product Support); or may examine the document(s) referred to



herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 27, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-28267 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 87-ACE-14]

#### Proposed Alteration of Control Zone and Transition Area; Jefferson City, MO

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This Notice proposes to alter the control zone and the 700-foot transition area at Jefferson City, Missouri. An additional instrument approach procedure is being developed for the Jefferson City Memorial Airport, Jefferson City, Missouri, utilizing the NOAH NDB as a navigational aid. The intended effect of this proposed action is to provide additional controlled airspace for aircraft executing the new instrument approach procedures to the Jefferson City Memorial Airport.

**DATE:** Comments must be received on or before January 12, 1988.

**ADDRESSES:** Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications

should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

#### Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

#### Discussion

The FAA is considering an amendment to Subpart F, § 71.171 of the Federal Aviation Regulations [14 CFR 71.171], and Subpart G, Section 71.181 of the Federal Aviation Regulations [14 CFR 71.181] by altering the control zone and 700-foot transition area at Jefferson City, Missouri. This proposed action is necessary in order to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 12 at the Jefferson City Memorial Airport. Therefore, the control zone and transition area at this location will be altered as described in this proposed airspace action. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7100.6C, dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is

certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR 71

Aviation safety, Control zones and Transition areas.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

#### PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

#### § 71.171 [Amended]

2. By amending § 71.171 as follows:

##### Jefferson City, MO [Revised]

Within a 5-mile radius of the Jefferson City Memorial Airport (latitude 38°35'29"N., longitude 92°09'25"W.); and within 1 mile each side of the Noah NDB (latitude 38°38'13"N., longitude 92°14'40"W.) 303° bearing, extending from the 5-mile radius zone to 0.5 miles northwest of the Noah NDB, and within 2.5 miles each side of the Memorial NDB (latitude 38°33'14"N., longitude 92°04'40"W.) 122° bearing, extending from the 5-mile radius zone to 11.5 miles southeast of the Memorial NDB. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

#### § 71.181 [Amended]

3. Additionally, by amending § 71.181 as follows:

##### Jefferson City, MO [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Jefferson City Memorial Airport (latitude 38°35'29"N., longitude 92°09'25"W.) and within 3.5 miles each side of the Noah NDB (latitude 38°38'13"N., longitude 92°14'40"W.) 303° bearing, extending from the 8.5-mile radius area to 12 miles northwest of the airport, and within 4.5 miles each side of the Runway 30 localizer final approach course extending from the 8.5-mile radius to 12 miles southeast of the Memorial NDB (latitude 38°33'14"N., longitude 92°04'40"W.).

Issued in Kansas City, Missouri, on November 27, 1987.

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-28271 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M



**14 CFR Part 71****[Airspace Docket No. 87-ACE-13]****Proposed Alteration of Transition Area; Atlantic, IA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This Notice proposes to alter the 700-foot transition area at Atlantic, Iowa. The instrument approach procedure to the Atlantic, Iowa, Municipal Airport utilizing the Atlantic NDB as a navigational aid is being revised. The intended effect of this proposed action is to provide controlled airspace for aircraft executing the instrument approach procedure to the Atlantic Municipal Airport.

**DATES:** Comments must be received on or before January 12, 1988.

**ADDRESSES:** Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**

Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date

for comments in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

**Discussion**

The FAA is considering an amendment to Subpart C, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Atlantic, Iowa. The instrument approach procedure to the Atlantic Municipal Airport utilizing the Atlantic NDB is being revised. This proposed action is necessary to realign the final approach course in accordance with TERPS criteria. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

**PART 71—[AMENDED]**

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

**§ 71.181 [Amended]**

2. By amending Section 71.181 as follows:

**Atlantic, IA [Revised]**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Atlantic Municipal Airport (latitude 41°24'30"N., longitude 95°03'00"W.); and within 4.5 miles each side of the 298° bearing from the Atlantic Municipal Airport extending from the 5-mile radius area to 9.5 miles northwest of the airport.

Issued in Kansas City, Missouri, on November 27, 1987.

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-28272 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

**AFRICAN DEVELOPMENT FOUNDATION****22 CFR Part 1506****Collection of Claims**

**AGENCY:** African Development Foundation.

**ACTION:** Proposed rule.

**SUMMARY:** This section proposes the policies and procedures to be followed by the African Development Foundation in the collection of debts due the United States. The proposed regulations are based on the Federal Claims Collection Standard of the General Accounting Office and the Department of Justice found at 4 CFR Parts 101 through 105.

**DATES:** Comments must be received on or before February 8, 1988.

**ADDRESS:** Comments may be mailed to the Director, Administration & Finance, Suite 600, African Development Foundation, 1625 Massachusetts Avenue, NW., Washington, DC 20036, or delivered to the same address between the hours of 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Paul Magid, General Counsel Tom Wilson, Director, Administration and Finance (202) 673-3916.

**SUPPLEMENTARY INFORMATION:** The Comptroller General of the United States and the Attorney General of the United States have promulgated joint regulations, found at 4 CFR 102.3(b) which mandate that agencies shall prescribe regulations establishing the procedures for the use of administrative offset in the collection of claims. This proposed regulation is intended to fulfill



this requirement, and, in addition, contains procedures generally applicable to the Foundation's collection of claims.

#### Regulatory Flexibility Act of 1980

(Generally, these regulations do not contain substantive new material. It is, therefore, certified that they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.)

#### Executive Order 12291

The African Development Foundation has determined that this rule is not a major rule for purposes of E.O. 12291 because it is not likely to result in a annual effect on the economy of \$100 million or more.

#### Paperwork Reduction Act

This rule imposes no obligatory information requirements on the general public.

#### List of Subjects in 22 CFR Part 1506

##### Claims Collection

Accordingly, it is proposed to add Part 1506 to 22 CFR Chapter XV to read as follows:

#### PART 1506—COLLECTION OF CLAIMS

##### Sec.

- 1506.1 Purpose.
- 1506.2 Applicability of Federal Claims Collection Standards.
- 1506.3 Subdivision of claims.
- 1506.4 Late payment, penalty and administrative charges
- 1506.5 Demand for payment.
- 1506.6 Collection by offset.
- 1506.7 Disclosure to consumer reporting agencies and contracts with collection agencies.

Authority: 31 U.S.C. 3711, and 4 CFR Parts 101 through 105.

##### § 1506.1 Purpose.

These regulations prescribe the procedures to be used by the African Development Foundation (ADF) in the collection of claims owed to the African Development Foundation and to the United States.

##### § 1506.2 Applicability of Federal Claims Collection Standards.

Except as otherwise provided by law, the African Development Foundation will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the Federal Claim Collection Standards ("FCCS") of the General Accounting Office and Department of Justice, 4 CFR Parts 101 through 105.

##### § 1506.3 Subdivision of claims.

A debtor's liability arising from a particular contract or transaction shall be considered a single claim for purposes of the monetary ceilings of the FCCS.

##### § 1506.4 Late payment, penalty and administrative charges.

(a) Except as otherwise provided by statute, loan agreement or contract, the African Development Foundation will assess:

(1) *Late payment charges* (interest) on unpaid claims at the prompt payment interest rate established by the Secretary of Treasury as the current value of funds to the United States Treasury.

(2) *Penalty charges* at 6 percent a year on any portion of a claim that is delinquent for more than 90 days.

(3) *Administrative charges* to cover the costs of processing and calculating delinquent claims.

(b) Late payment charges shall be computed from the date of mailing or hand delivery of the notice of the claim and interest requirements.

(c) *Waiver.* (1) Late payment charges are waived on any claim or any portion of a claim which is paid within 30 days after the date on which late payment charges begin to accrue.

(2) The 30 days period may be extended on a case-by-case basis if it is determined that an extension is appropriate.

(3) The African Development Foundation may waive late payment, penalty and administrative charges under the FCCS criteria for the compromise of claims (4 CFR Part 103), or upon a determination that collection of the charges would be against equity and good conscience or not in the best interest of the United States, including for example:

(i) Pending consideration of a request for reconsideration, administrative review or waiver under a permissive statute,

(ii) If repayment of the full amount of the debt is made after the date upon which interest and other charges become payable and the estimated costs of recovering the residual balance exceeds the amount owed, or

(iii) If collection of interest or other charges would jeopardize collection of the principal of the claim.

##### § 1506.5 Demand for payment.

(a) A total of three progressively stronger written demands at approximately 30-day intervals will normally be made, unless a response or other information indicates that additional written demands would

either be unnecessary or futile. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the Federal Claims Collection Standards, including immediate referral for litigation and/or offset.

(b) The initial written demand for payment shall inform the debtor of:

- (1) The basis for the claim;
- (2) The amount of the claim;
- (3) The date when payment is due, 30 days from date of mailing or hand delivery of the initial demand for payment;

(4) The provision for late payment (interest), penalty and administrative charges, if payment is not received by the due date.

##### § 1506.6. Collection by offset.

(a) Collection by administrative offset will be undertaken only on claims which are liquidated or certain in amount. Offset will be used whenever feasible and not otherwise prohibited. Offset is not required to be used in every instance and consideration should be given to the debtor's financial condition and the impact of offset on Foundation activities.

(b) The procedures for offset in this part do not apply to the offset of Federal salaries under 5 U.S.C. 5514.

(c) Before offset is made, the Foundation will provide the debtor with written notice informing the debtor of:

(1) The nature and amount of the claim;

(2) The intent of the Foundation to collect by administrative offset, including asking the assistance of the other Federal agencies to help in the offset whenever possible, if the debtor has not made payment by the payment due date or has not made an arrangement for payment by the payment due date;

(3) The right of the debtor to inspect and copy the records of the Foundation related to the claim;

(4) The right of the debtor to a review of the claim within the Foundation. If the claim is disputed to full or part, the debtor shall respond to the demand in writing by making a request to the billing office for a review of the claim within the Foundation by the payment due date stated in the notice. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion must be paid by the date stated in the notice to avoid late payment, penalty and administrative charges. If the African Development Foundation later sustains or amends its determination, it shall notify the debtor of its intent to



collect the claim, with any adjustments based on the debtor's response, by administrative offset, unless payment is received within 30 days of the mailing of the notification of its decision following a review of the claim.

(5) The right of the debtor to offer to make a written agreement to repay the amount of the claim.

(6) The notice of offset need not include the requirements of paragraph (c) (3), (4) or (5) of this section if the debtor has been informed of the requirements at an earlier stage in the administrative proceedings, e.g., if they were included in a final contracting officer's decision.

(d) The African Development Foundation will promptly make requests for offset to other agencies known to be holding funds payable to a debtor and, when appropriate, place the name of the debtor on the "List of Contractors Indebted to the United States." The African Development Foundation will provide instructions to the collecting agency for the transfer of funds.

(e) The African Development Foundation will promptly process requests for offset from other agencies and transfer funds to the requesting Foundation upon receipt of the written certification required by § 102.3 of the FCCS.

**§ 1506.7 Disclosure to consumer reporting agencies and contracts with collection agencies.**

(a) The African Development Foundation may disclose delinquent debts, other than delinquent debts of current Federal employees, to consumer reporting agencies in accordance with 31 U.S.C. 3711(f) and the FCCS.

(b) The African Development Foundation may enter into contracts with collection agencies in accordance with 31 U.S.C. 3718 and the FCCS.

December 2, 1987.

Leonard H. Robinson, Jr.,

President, African Development Foundation.

[FR Doc. 87-28286 Filed 12-9-87; 8:45 am]

BILLING CODE 5117-01-M

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Part 177**

**San Carlos Indian Irrigation Project, AZ**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Indian Affairs is proposing to amend the pertinent

sections of the regulations governing charges and costs assessed the electric power customers for the electric power, energy and associated electric power services provided by the San Carlos Indian Irrigation (Project), Arizona. The purpose of the proposed regulatory amendments is to increase the electric power assessment rates in the residential and general service rate schedules for services provided to the public by the electric power division of the Project and to generate needed additional revenues for the Project. The proposed assessment rates reflect the increased operating costs associated with labor, equipment and supplies, as well as the costs of project rehabilitation, project repayment and irrigation subsidies.

**DATES:** Comments must be received on or before January 11, 1988.

**ADDRESSES:** Written comments may be mailed to the Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85001.

**FOR FURTHER INFORMATION CONTACT:**

Ralph Esquerro, Project Engineer, San Carlos Indian Irrigation Project, P.O. Box 250, Coolidge, Arizona 85228, Telephone: (602) 723-5439.

**SUPPLEMENTARY INFORMATION:** This action proposes increased assessment to residential and general service customers for electric power, energy and related electric power services provided by the Power Division of the San Carlos Indian Irrigation Project.

This action will provide some relief for the Project's chronic problem of insufficient incoming revenues from the sale of electric power and energy to provide adequate service. The Project's electric power division, like other public utilities, faces rehabilitation, betterment and replacement costs associated with the electric power distribution system. This proposed adjustment of the assessment rates, which is the first increase in 5 years, is due in part to the general inflationary increase in the costs of labor, equipment and supplies. The adjustment will also make it possible to engage in a planned program of project rehabilitation, commence project repayment, and subsidize irrigation as authorized by Congress.

Federal laws applicable to the Project provide for the revenues from sales of electric power to be appropriated for the following purposes: (1) Payment of the expenses of operating and maintaining the power system; (2) creation and maintenance of reserve funds to be available for making repairs and replacements to, defraying emergency expenses for, and insuring continuous operation of the power system; (3)

reimbursing the United States for the cost of the electric power system; (4) reimbursing the United States for the cost of the irrigation system; (5) payment of operation and maintenance charges, and the making of repairs and improvements on the irrigation system. Projected revenues are not sufficient to enable the Project to implement fully the Congressional authorization for the use of revenues generated from the sale of electric power. The additional revenues will allow the Project to meet its statutory repayment requirements and also enable the Project to apply funds towards the operation and maintenance of the irrigation system.

More specifically, the inability to rehabilitate the transmission lines among the communities of Coolidge and Hayden, the Hayden switchyard and the Oracle substations has led to power outages and brown-outs in the service area. In the electric utility industry it is common practice to replace transmission wire, transformers, breakers, busses and other electrical equipment after being in service the period of time prescribed by manufacturers for safe, reliable service. The quality and quantity of electric power service is declining substantially due to the Project's inability to replace very important and expensive pieces of equipment when their useful service lives have been exhausted.

It is the policy of the Bureau of Indian Affairs to provide safe and reliable electric power service, treat electric power customers equitably, maintain fiscal integrity and manage electric power utilities efficiently. Additionally, Bureau policy is to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. In monetary terms, the economic effects of the proposed amendment will be below \$100 million and do not meet the other tests for a major rule under E.O. 12291. The Department of the Interior certifies that this document will not have a significant



economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The expected effects on the approximately 1,500 individual commercial electric power meters will be small and insignificant, and in monetary terms, the proposed action involves approximately \$750,000 of additional revenue per year for the Project. The anticipated impacts on competition, employment, investment and the general economic environment is minimal and insignificant. The Department also has determined that this document does not constitute a major Federal action significantly affecting the human environment, which would require preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act. The information collection requirement in § 177.4 has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1076-0021.

#### List of Subjects in 25 CFR Part 177

Electric power, Indians-lands, Irrigation.

The principal author of this document is Mort S. Dreamer, Irrigation and Power Engineer, Bureau of Indian Affairs, Office of Trust and Economic Development, Division of Water and Land Resources, Irrigation and Power and Safety of Dams, MS-4559-MIB, Washington, DC 20245. Telephone Number (202) 343-5696.

For the reasons set out in the preamble, Part 177 in Chapter I of Title 25 of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 177—[AMENDED]

1. The authority citation for Part 177 continues to read as follows:

**Authority:** Sec. 5, 43 Stat. 476, 45 Stat. 210, 211; 5 U.S.C. 301.

2. Section 177.51 is amended by revising paragraphs (b) and (c) as follows:

#### § 177.51 Rate schedule No. 1—residential rate.

\* \* \* \* \*

(b) *Monthly rate.* (1) \$10.74 minimum which includes the first 50 kilowatt-hours.

(2) 11.7 cents per kilowatt-hour for the next 100 kilowatt-hours.

(3) 7.5 cents per kilowatt-hour for the next 350 kilowatt-hours.

(4) 6.3 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Minimum bill.* The minimum bill shall be \$10.74 per month except when a higher minimum bill is stipulated in the contract.

\* \* \* \* \*

3. Section 177.52 is amended by revising paragraphs (b) and (c) to read as follows:

#### § 177.52 Rate schedule No. 2—general rate.

\* \* \* \* \*

(b) *Monthly rate.* (1) \$13.87 minimum which includes the first 50 kilowatt-hours.

(2) 16.8 cents per kilowatt-hour for the next 350 kilowatt-hours.

(3) 9.9 cents per kilowatt-hour for the next 600 kilowatt-hours.

(4) 7.6 cents per kilowatt-hour for the next 9,000 kilowatt-hours.

(5) When use is 10,000 kilowatt-hours or more: First 10,000 kilowatt-hours \$843.07.

(6) Additional kilowatt-hours at 6.17 cents per kilowatt-hour, less a credit of 0.9 cents per kilowatt-hour for each kilowatt-hour above 200 times the billing demand (50 kw minimum).

(c) *Minimum bill.* The minimum bill shall be \$3.06 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with the current month equal to twelve times the highest monthly minimum computed for the same twelve-month period. However, no monthly billings shall be less than \$13.87.

\* \* \* \* \*

Date: December 11, 1987.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 87-28400 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-02-M

#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

##### 26 CFR Parts 54 and 602

[EE-162-86]

#### Excise Tax on Excess Distributions From Retirement Plans; Proposed Rulemaking

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations portion of this issue of the *Federal Register*, the Internal Revenue Service is issuing temporary regulations relating to the excise tax on excess distributions from retirement plans under section 1133 of the Tax Reform Act of 1986. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed before February 8, 1988.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-162-86), Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Marjorie Hoffman of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (EE-162-86), 202-566-3903 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The temporary regulations in the Rules and Regulations portion of this issue of the *Federal Register* amend 26 CFR by adding a new § 54.4981A-1T under Part 54 to provide guidance so taxpayers can comply with section 4981A of the Internal Revenue Code. The final regulations which are proposed to be based on the temporary regulations would amend Part 54 of Title 26 of the Code of Federal Regulations by adding similar sections to Part 54 (Pension Excise Tax Regulations). The regulations are proposed to be issued under the authority contained in sections 4981A and 7805 of the Code (100 Stat. 2841, 26 U.S.C. 4981A; 68A Stat. 917, 26 U.S.C. 7805). For the text of the temporary regulations, see F.R. Doc. 87-28401 (T.D. 8165) published in the Rules and Regulations of this issue of the *Federal Register*.

##### Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed



rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

#### Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the *Federal Register*. The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests persons submitting comments to OMB also to send copies of the comments to the Service.

#### Drafting Information

The principal author of these proposed regulations is Marjorie Hoffman of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

#### List of Subjects

26 CFR 54

Excise taxes, Pensions.

26 CFR 602

Reporting and recordkeeping requirements.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-28402 Filed 12-9-87; 8:45 am]

BILLING CODE 4830-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 935

#### Proposed Regulatory Program Amendment; Coal Waste Disposal, Revegetation; Ohio

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSMRE is announcing receipt of a proposed amendment package submitted by Ohio as a modification to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted consist of proposed changes to specified regulations concerning coal waste and non-coal waste disposal, and revegetation regulations concerning prime farmland. The amendments also include narrative to support Ohio's method of evaluation of revegetation success, the use of county average yields to evaluate cropland restoration, and the release of bond on prime farmland.

These proposed amendments are in response to deficiencies noted by OSMRE in the *Federal Register* on July 17, 1987 (52 FR 26959-26972).

This notice sets forth the times and locations that the Ohio program proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing, if one is requested.

**DATES:** Written comments must be received on or before 4:00 p.m. on January 11, 1988, if requested, a public hearing on the proposed amendments is scheduled for 1:00 p.m. on January 4, 1988; and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on December 28, 1987.

**ADDRESSES:** Written comments and requests to testify at the hearing should be directed to Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, OH 43222; Telephone (614) 866-0578. If a hearing is requested, it will be held at the same address.

Copies of the Ohio program, the amendments, a listing of any scheduled

public meeting, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 "L" Street, NW., Washington, DC 20240.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, PA 15220.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Columbus, OH 43222.

Ohio Division of Reclamation, Fountain Square, Building B-3, Columbus, OH 43224.

Each requestor may receive, free of charge, one single copy of the proposed amendments by contacting the OSMRE Columbus Field Office.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nina Rose Hatfield, (614) 866-0578.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Ohio Program

On August 16, 1982, the Ohio program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982, *Federal Register* (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

##### II. Discussion of the Proposed Amendments

On October 15, 1987, the Ohio Department of Natural Resources (ODNR), Division of Reclamation, submitted revised Program Amendment No. 25 (Administrative Record No. OH-983). On November 3, 1987, Ohio submitted a letter withdrawing the October 15, 1987 submission of revised Program Amendment No. 25 and resubmitted a revised version (Administrative Record No. OH-987). Revised Program Amendment No. 25 was submitted in response to OSMRE's findings on Amendment No. 25 published in the *Federal Register* on July 17, 1987 (52 FR 26971). 30 CFR 935.16(d-h) required that amendment of the Ohio program to address deficiencies found in Amendment 25 be submitted by October 15, 1987.



Revised Program Amendment No. 25 proposes to amend OAC 1501:13-9-09 (A)(4) and (E)(3) to require foundation investigation and laboratory testing of coal waste disposal sites, and prohibit disposal of non-coal wastes in a refuse pile and within eight feet of a coal outcrop or storage area, as required by 30 CFR 935.16(e). The amendment includes narrative intended to address 30 CFR 935.16(f) which requires the Ohio program to include a statistically valid technique to evaluate revegetation success. It includes additional narrative in support of the use of county average yields as a measure of comparable productivity on cropland which is not prime farmland. This is in response to 30 CFR 935.16(g). The amendment proposes to amend OAC 1501:13-9-15(F)(5)(f and g) and provides supportive narrative to allow phase II bond release on prime farmland with one year of yield data and the results of a soils investigation indicating adequate development and penetration of the root zone. The phase III release would be approvable upon submission of two additional years of yield data. This portion of the amendment is in response to 30 CFR 935.16(h).

Ohio also proposes to amend OAC 1501:13-9-15(B) to exempt from the requirement to establish vegetative cover, small incidental areas where revegetation would conflict with the postmining land use as long as no environmental harm would occur. OAC 1501:13-9-15(F)(4)(b) changes a reference to now allow for a phase II release on cropland which is not prime farmland to occur when the planting is deemed established. A reference is also proposed to be changed in OAC 1501:13-9-15(F)(5)(e)(i) to indicate that the five year period of extended responsibility on prime farmland begins at the initial planting.

30 CFR 935.16(d) required Ohio to amend OAC 1501:13-1-02(m) concerning the definition of cemetery. This required amendment has been submitted under Amendment No. 31.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio program.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendments proposed by ODNR satisfy the requirements of 30 CFR 732.15 for the

approval of State program amendments. If the amendments are deemed adequate, they will become part of the Ohio program.

### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

### Public Hearing

Persons wishing to comment at the public hearing should contact the person listed **"FOR FURTHER INFORMATION CONTACT"** by the close of business on December 28, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

### Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the Columbus Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

### IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no

environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from requirement to prepare a Regulatory Impact Analysis, and regulatory review by OMB is not required.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

### List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Alfred E. Whitehouse,  
Acting Assistant Director, Eastern Field Operations.

Date: December 1, 1987.  
[FR Doc. 87-28339 Filed 12-9-87; 8:45 am]  
BILLING CODE 4310-05-M

## DEPARTMENT OF EDUCATION

### 34 CFR Part 778

#### Strengthening Research Library Resources Program; Extension of Comment Period

**AGENCY:** Department of Education.

**ACTION:** Proposed rule, extension of comment period.

**SUMMARY:** On October 14, 1987, the Department of Education published in the *Federal Register* a notice of proposed rulemaking (NPRM) related to changes in program operations, which provided for a comment period ending November 13, 1987 (52 FR 38191-38195).

In response to numerous requests, the Secretary extends the comment period.

**DATE:** The comment period for the October 14, 1987 NPRM is extended until December 15, 1987.

**ADDRESSES:** All comments concerning the proposed regulations should be



addressed to Frank Stevens or Louise Sutherland, U.S. Department of Education, Office of Educational Research and Improvement, Library Programs, 555 New Jersey Avenue NW., Washington DC 20208-1430.

**FOR FURTHER INFORMATION CONTACT:** Frank Stevens or Louise Sutherland, (202) 357-6315.

Dated: December 7, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-28412 Filed 12-9-87; 8:45 am]

BILLING CODE 4000-01-M

### 34 CFR Part 790

#### Territorial Teacher Training Assistance

**AGENCY:** Department of Education.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations for the Territorial Teacher Training Assistance Program (TTAP). The purpose of the amendments is to remove unnecessary and duplicative material from the regulations. The Secretary takes this action to clarify and improve the regulations.

**DATES:** Comments must be received on or before January 25, 1988.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Haroldie K. Spriggs, Project Officer, U.S. Department of Education, Territorial Teacher Training Assistance Program, Office of Educational Research and Improvement, 555 New Jersey Avenue NW, Room 508-D, Washington, DC 20208.

**FOR FURTHER INFORMATION CONTACT:** Haroldie K. Spriggs, (202) 357-6143.

**SUPPLEMENTARY INFORMATION:** The Territorial Teacher Training Assistance Program provides Federal assistance for the training of teachers in schools in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

The revisions in the regulations are intended to delete duplicative material in §§ 790.3, 790.20, 790.40, and 790.42. References to specific applicable portions of the Education Department General Administrative Regulations (EDGAR) are deleted since the applicability of the relevant parts is made clear in § 790.3 of the regulations.

#### Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major

because they do not meet the criteria for major regulations established in the order.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The regulations make minor technical changes that will not have a significant economic impact on any entities participating in the program.

#### Paperwork Reduction Act of 1980

Sections 790.2 and 790.20 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

#### Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

#### Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 508-D, 555 New Jersey Avenue NW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing

regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

#### Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

#### List of Subjects in 34 CFR Part 790

American Samoa, Colleges and universities, Education, Grant programs—education, Guam, Northern Mariana Islands, Pacific Islands Trust Territories, Teachers, Virgin Islands.

Dated: December 3, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.124: Territorial Teacher Training Assistance)

The Secretary proposes to amend Part 790 of Title 34 of the Code of Federal Regulations as follows:

#### PART 790—TERRITORIAL TEACHER TRAINING ASSISTANCE

1. The authority citation for Part 790 is revised to read as follows:

Authority: Title XV, Part C, sec. 1525 of the Education Amendments of 1978 (Pub. L. 95-561), as amended, unless otherwise noted.

2. Section 790.3 is revised to read as follows:

#### § 790.3 Regulations that apply to the Territorial Teacher Training Assistance Program.

The following regulations apply to grants under the Territorial Teacher Training Assistance Program:

(a) The Education Department General Administrative Regulations (EDGAR) established in Title 34 of the Code of Federal Regulations in Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 790.

(Authority: Sec. 1525, Pub. L. 95-561)

3. Section 790.20 is revised to read as follows:



**§ 790.20 How to apply for funds.**

The Secretary makes a grant only if the applicant submits an application meeting the following requirements:

(a) For the first year of the program an application must contain—

(1) A needs assessment defining teacher training needs of both public and private schools in the jurisdiction covered by the application;

(2) A four-year plan explaining the methods to be employed and activities to be conducted to meet the teacher training needs identified in paragraph (a)(1) of this section;

(3) A detailed explanation of the goals, objectives, and activities to be carried out in the first year of the program;

(4) A detailed proposed budget for the accomplishment of the activities described in paragraph (a)(3) of this section for the fiscal year for which the application is submitted; and

(5) The estimated funding needs for each subsequent year of the four-year plan.

(b) For each subsequent year of the program, an application must contain—

(1) Any revisions to the needs assessment statement or amendments to the four-year plan statement submitted under paragraphs (a)(1) and (a)(2) of this section;

(2) A statement describing the extent to which the previous year's project met the goals and objectives set forth in that year's application;

(3) A detailed explanation of the activities to be carried out for the current project year;

(4) A detailed proposed budget for the current project year; and

(5) An updated estimate of funding needs for the subsequent years of the project.

(Authority: Sec. 1525, Pub. L. 95-561)

4. Section 790.40 is amended by revising paragraph (a) to read as follows:

**§ 790.40 Allowable costs.**

(a) Funds under this part may be used to cover all or part of the cost of establishing and implementing a teacher training assistance project.

\* \* \* \* \*

**§ 790.42 [Amended]**

5. Section 790.42 is amended by removing paragraph (b) and the paragraph designation "(a)".

[FR Doc. 87-28192 Filed 12-9-87; 8:45 am]

BILLING CODE 4000-01-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[A-1-FRL-3300-1]

**Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Amendments to Air Pollution Control Regulations Regarding Testing Requirements**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These revisions involve amendments to the SIP regulations for volatile organic compound (VOC) emitting sources. The revisions require the use of EPA-approved test methods when compliance testing is performed for non-control Technique Guideline (CTG) VOC sources subject to reasonably available control technology (RACT). The Massachusetts' SIP has a non-CTG regulation imposing RACT on all VOC sources with emissions greater than 100 tons per year not otherwise subject to RACT under a regulation developed pursuant to a CTG. The intended effect of this action is to approve revisions made by the Commonwealth of Massachusetts in accordance with Section 110 of the Clean Air Act.

**DATES:** Comments must be received on or before January 11, 1988.

**ADDRESSES:** Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Bldg., Boston, MA 02203 and the Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Lorenzo Thantu, (617) 565-3250; FTS 835-3250.

**SUPPLEMENTARY INFORMATION:** On June 30, 1987, the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted proposed amendments to SIP regulation 310 CMR 7.18 for VOC emitting sources. The proposed amendments to Regulation 310 CMR 7.18, Volatile Organic Compounds, are described below:

(1) Subsection 310 CMR 7.18(2) which sets forth the testing requirements for VOC emitting sources is being amended by expanding the source testing requirements to include non-CTG sources subject to RACT under subsection 310 CMR 7.18(17) and by requiring that the use of any alternative test method to EPA methods 24 and 25 be EPA-approved.

(2) Subsection 310 CMR 7.18(17) which sets forth procedures for issuance of plan approvals imposing RACT on non-CTG sources is being amended by including language which references SIP Regulation 310 CMR 7.02(2). Subsection 310 CMR 7.18(17)(d) references 310 CMR 7.02(2) to clarify certain procedures related to plan approvals. Subsection 310 CMR 7.02(2) requires that sources operate in conformance with plan approvals issued by the DEQE.

(3) Subsection 310 CMR 7.18(17)(d) is also being amended to include language stating that non-CTG VOC sources subject to RACT under plan approvals issued pursuant to 310 CMR 7.18(17) would be subject to enforcement action by both the DEQE and EPA should they violate provisions of those plan approvals.

EPA is proposing to approve these SIP revisions to Regulation 310 CMR 7.18, Volatile Organic Compounds, and is soliciting public comments on issues discussed in this notice. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

These revisions are being proposed under a procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revisions have been adopted by the Commonwealth of Massachusetts and submitted to EPA for incorporation into the SIP.

**Proposed Action:** EPA is proposing to approve the amendments proposed by the DEQE to SIP Regulation 310 CMR 7.18 as outlined in this notice.

Under 5 U.S.C. 605(b), I certify that these SIP revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.



The Administrator's decision to approve or disapprove the plan revisions will be based on whether it meets the requirements of sections 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference.

Authority: 42 U.S.C. 7401-7642.

Dated: September 23, 1987.

Paul Keough,

Acting Regional Administrator, Region I.

[FR Doc. 87-28367 Filed 12-9-87; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 67

[Docket No. FEMA-6920]

#### Federal Insurance Administration; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood

elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirements; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

#### PART 67—[AMENDED]

The proposed base (100-year) flood elevations for selected locations are:

#### PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>ARIZONA</b>	
<b>Colorado City (town), Mohave County</b>	
<i>Short Creek:</i>	
Approximately 15 feet upstream of State Highway 389	*4,930
Approximately 30 feet downstream of North Central Road	*4,977
At Usona Avenue	*5,010
Maps are available for review at Town Hall, 15 N. Central Street, Suite A, Colorado City, Arizona.	
Send comments to Mayor Dan Barlow, P.O. Box 70, Colorado City, Arizona 86021.	
<b>COLORADO</b>	
<b>Westminster (city), Adams and Jefferson Counties</b>	
<i>Big Dry Creek:</i>	
Approximately 60 feet upstream of Interstate 25	*5,162
Approximately 50 feet downstream of Huron Street	*5,167
Approximately 20 feet upstream of West 128th Avenue	*5,190
Approximately 200 feet downstream of confluence with Ranch Creek	*5,208
Approximately at 112th Avenue	*5,247
Approximately 10 feet downstream of Sheridan Boulevard	*5,253
Approximately 850 feet upstream of confluence with North City Park Creek	*5,264
Approximately 140 feet downstream of U.S. Highway 36	*5,289
Approximately at Wadsworth Boulevard	*5,358
Approximately 1.4 miles upstream of Wadsworth Boulevard	*5,392
<i>Tanglewood Creek:</i>	
Approximately 350 feet upstream of Interstate 25	*5,183
Approximately 10 feet upstream of West 128th Avenue	*5,230
Approximately 900 feet downstream of West 121st Avenue	*5,310
Approximately 450 feet upstream of West 121st Avenue	*5,340
<i>Ranch Creek:</i>	
Approximately 300 feet upstream of confluence with Big Dry Creek	*5,208
Approximately 40 feet downstream of Jackson Lake Dam	*5,293
Approximately 150 feet downstream of Quivas Way	*5,325
Approximately 160 feet downstream of Huron Street	*5,389
Downstream of Jackson Lake	#1
<i>South Branch Ranch Creek:</i>	
Approximately 100 feet upstream of Jackson Lake	*5,307
Approximately 150 feet downstream of 112th Avenue	*5,354
<i>Walnut Creek:</i>	
Approximately 550 feet upstream of confluence with Countryside Creek	*5,350
Approximately 75 feet upstream of West 108th Avenue	*5,411
Approximately 50 feet downstream of Simms Street	*5,469
<i>North Branch Walnut Creek:</i>	
Approximately 30 feet upstream of confluence with Walnut Creek	*5,430
Approximately 950 feet downstream of Simms Street	*5,465
<i>Countryside Creek:</i>	
Approximately 150 feet upstream of confluence with Walnut Creek	*5,348
Approximately 100 feet downstream of Intersection of 104th Avenue and Holland Street	*5,347
Approximately 230 feet downstream of Oak Street	*5,428
<i>Nissen Reservoir Channel:</i>	
Approximately 300 feet upstream of confluence with Big Dry Creek	*5,214



PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued		PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued		PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued	
Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 40 feet downstream of Lowell Boulevard.....	*5,236	Send comments to Mayor George A. Hovorka, City of Westminster, 3031 West 76th Avenue, Westminster, Colorado 80030.		Send comments to The Honorable Bud Mathis, Chairman, County Board of Commissioners, Gilchrist County, P.O. Box 37, Trenton, Florida 32693.	
<b>City Park Channel:</b>		<b>CONNECTICUT</b>		<b>Oak Hill (city), Volusia County</b>	
Approximately 80 feet upstream of 120th Avenue.....	*5,243	<b>Canaan (town), Litchfield County</b>		<b>Atlantic Ocean:</b>	
Approximately 450 feet upstream of Sheridan Boulevard.....	*5,286	<b>Housatonic River:</b>		About 250 feet east of intersection of State Road A1A and the northern corporate limit.....	*9
Southwest of the intersection of Frontage Road and Sheridan Boulevard.....	#1	Downstream corporate limits.....	*542	About 400 feet east of the intersection of State Road A1A and the northern corporate limit.....	*12
<b>North Cotton Creek:</b>		Upstream corporate limits.....	*645	<b>Atlantic Ocean-Mosquito Lagoon/Intracoastal Waterway:</b>	
Approximately 320 feet upstream of Vrain Street.....	*5,248	<b>Hollenbeck River:</b>		At south end of River Road.....	*6
Approximately 600 feet upstream of Stuart Street.....	*5,291	At downstream corporate limits.....	*642	At east end of Maytown Road.....	*8
Approximately 2,300 feet upstream of Stuart Street.....	*5,328	At confluence of Wangum Lake Brook.....	*650	<b>Maps available for inspection at the City Hall, Oak Hill, Florida.</b>	
<b>Middle Cotton Creek:</b>		At Route 63 (1st stream crossing).....	*661	Send comments to The Honorable Clarence Q. Goodrich, Jr., Mayor, City of Oak Hill, P.O. Box 98, Oak Hill, Florida 32759.	
Approximately 650 feet downstream of Cotton Creek Drive (downstream crossing).....	*5,248	At Route 63 (2nd stream crossing).....	*727		
Approximately 600 feet downstream of Cotton Creek Drive (upstream crossing).....	*5,336	At Hollenbeck Dam.....	*805	<b>Union County (unincorporated areas)</b>	
Approximately 1,650 feet upstream of Cotton Creek Drive (upstream crossing).....	*5,399	At upstream corporate limits.....	*839	<b>Santa Fe River:</b>	
<b>South Cotton Creek:</b>		<b>Wangum Lake Brook:</b>		About 1.8 miles downstream of State Road 241.....	*58
Approximately 340 feet upstream of confluence with Big Dry Creek.....	*5,251	At confluence with Hollenbeck River.....	*650	About 0.6 mile upstream of State Road 121.....	*74
Approximately 1,720 feet upstream of confluence with Big Dry Creek.....	*5,298	At approximately 1 mile upstream from Cobble Road.....	*690	<b>Maps available for inspection at the Building Inspection Department, County Courthouse, Lake Butler, Florida.</b>	
<b>Airport Creek:</b>		<b>Maps available for inspection at the Town Clerk's Vault, Falls Village, Connecticut.</b>		Send comments to The Honorable Mitch Brannen, Chairman, Board of County Commissioners, Union County, County Courthouse, Lake Butler, Florida 32054.	
Approximately 900 feet upstream of confluence with Big Dry Creek.....	*5,262	Send comments to The Honorable Peter G. Lawson, First Selectman of the Town of Canaan, Litchfield County, Town Office, 107 Main Street, Falls Village, Connecticut 06031.		<b>GEORGIA</b>	
Approximately 80 feet upstream of 112th Avenue.....	*5,287	<b>Cornwall (town), Litchfield County</b>		<b>Fayetteville (city), Fayette County</b>	
Approximately 1,100 feet downstream of Kendall Street.....	*5,295	<b>Housatonic River:</b>		<b>Ginger Cake Creek:</b>	
Approximately 100 feet downstream of Pierce Street.....	*5,326	Downstream corporate limits.....	*402	Just upstream of Lanier Avenue West.....	*812
West of Sheridan Boulevard along 112th Avenue.....	#1	Approximately 50 feet downstream of U.S. Route 7.....	*440	About 2,150 feet upstream of Lanier Avenue West.....	*817
<b>North City Park Creek:</b>		Upstream side of State Route 128.....	*509	<b>Maps available for inspection at the Building Inspection Department, City Hall, Fayetteville, Georgia.</b>	
Approximately 260 feet upstream of the confluence with Big Dry Creek.....	*5,263	Upstream corporate limits.....	*541	Send comments to The Honorable Jack Dettmering, Mayor, City of Fayetteville, P.O. Box 302, Fayetteville, Georgia 30214.	
Approximately 150 feet upstream of Sheridan Boulevard.....	*5,315	<b>Hollenbeck River:</b>		<b>ILLINOIS</b>	
Approximately 1,300 feet upstream of Sheridan Boulevard.....	*5,360	Downstream corporate limits.....	*839	<b>Columbia (city), Monroe County</b>	
<b>South City Park Creek:</b>		Downstream side of State Route 43.....	*894	<b>Mississippi River:</b> Northwest corner of community.....	*421
Approximately 250 feet upstream of confluence with Big Dry Creek.....	*5,274	Approximately 1.2 miles upstream of Lake Road.....	*923	<b>Carr Creek:</b>	
Approximately 80 feet downstream of Sheridan Boulevard.....	*5,330	<b>Maps available for inspection at the Town Clerk's Vault, Town Office, Cornwall, Connecticut.</b>		Downstream corporate limits.....	*425
<b>North Branch Hylands Creek:</b>		Send comments to The Honorable Patsy Van Dorn, First Selectperson for the Town of Cornwall, Litchfield County, P.O. Box 205, Town Office, Cornwall, Connecticut 06753.		Approximately 640 feet above upstream corporate limits.....	*431
Approximately at confluence with Middle Branch Hylands Creek.....	*5,319	<b>Sharon (town), Litchfield County</b>		<b>Palmer Creek:</b>	
Approximately 2,500 feet downstream of 104th Avenue.....	*5,410	<b>Housatonic River:</b>		Downstream corporate limits.....	*403
Approximately 350 feet downstream of 104th Avenue.....	*5,455	Approximately 3.1 miles downstream of U.S. Route 7.....	*409	Upstream side of Missouri-Pacific Railroad.....	*416
<b>Middle Branch Hylands Creek:</b>		Approximately 0.6 mile downstream of the confluence of Carse Brook.....	*480	Approximately 0.2 mile above the upstream corporate limits.....	*427
Approximately 40 feet upstream of confluence with South Branch Hylands Creek.....	*5,296	Approximately 3.6 miles upstream of State Route 128.....	*541	<b>Tributary to Palmer Creek:</b>	
Approximately 40 feet upstream of Sheridan Boulevard.....	*5,346	<b>Webatuck Creek:</b>		Downstream corporate limits.....	*449
Approximately 50 feet upstream of East 101st Avenue.....	*5,411	At downstream corporate limits.....	*545	Upstream corporate limits.....	*461
Approximately 1,100 feet upstream of Lowell Boulevard.....	*5,526	Approximately 0.3 mile upstream of the downstream corporate limits.....	*551	<b>Maps available for inspection at the City Hall, 208 South Rapp, Columbia, Illinois.</b>	
<b>South Branch Hylands Creek:</b>		<b>Maps available for inspection at the Town Clerk's Vault, Sharon, Connecticut.</b>		Send comments to The Honorable George W. Eckert, Mayor of the City of Columbia, Monroe County, City Hall, 208 South Rapp, Columbia, Illinois 62236.	
Approximately 150 feet upstream of confluence with Big Dry Creek.....	*5,280	Send comments to The Honorable William A. Wilbur, First Selectman of the Town of Sharon, Litchfield County, Town Office, P.O. Box 385, Sharon, Connecticut 06069.		<b>Greenup (village), Cumberland County</b>	
Approximately 200 feet west of intersection of Eaton Street and 102nd Place.....	*5,316	<b>FLORIDA</b>		<b>Embaras River:</b>	
Approximately 150 feet downstream of Sheridan Boulevard.....	*5,366	<b>Gilchrist County (unincorporated areas)</b>		About 1,100 feet downstream of Conrail.....	*526
<b>Tributary B Little Dry Creek:</b>		<b>Suwannee River:</b>		About 1.1 miles upstream of Interstate 70.....	*537
Approximately 100 feet upstream of Wadsworth Boulevard.....	*5,456	Just upstream of U.S. Route 19.....	*21	<b>Maps available for inspection at the Village Clerk's Office, Municipal Building, Greenup, Illinois.</b>	
Approximately 1,300 feet upstream of Allison Street.....	*5,481	At confluence of Sante Fe River.....	*32		
<b>Maps are available for review at the City Engineer's Office, 3031 West 76th Avenue, Westminster, Colorado.</b>		<b>Sante Fe River:</b>			
		At mouth.....	*32		
		Just upstream of county boundary.....	*40		
		<b>Maps available for inspection at the Building Inspection Department, County Courthouse, Trenton, Florida.</b>			



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to The Honorable Lowell Slater, Village President, Village of Greenup, P.O. Box 246, Greenup, Illinois 62428-0246.	
<b>Greenview (village), Menard County</b>	
<i>Grove Creek:</i>	
About 1,000 feet downstream of Illinois Central Gulf Railroad	*520
About 2,500 feet upstream of County Route 1	*533
<b>Maps available for inspection at the Post Office, Greenview, Illinois.</b>	
Send comments to The Honorable Lawrence Evers, Village President, Village of Greenview, P.O. Box 352, Greenview, Illinois 62642-0352.	
<b>Logan County (unincorporated areas)</b>	
<i>Salt Creek:</i>	
Just upstream of Interstate 55	*554
At confluence of Lake Fork	*564
About 3.3 miles downstream of County Route 6	*600
Just upstream of County Route 6	*608
<i>Kickapoo Creek:</i>	
Just upstream of State Route 10	*556
Just downstream of Illinois Central Railroad (upstream crossing)	*594
<i>Brainard Branch:</i>	
At mouth	*565
About 0.86 mile upstream of U.S. Route 66 (upstream crossing)	*579
<i>Elkhart Slough:</i>	
Just downstream of Interstate 55	*586
About 1.0 mile upstream of Interstate 55	*590
<i>Salt Springs Branch:</i>	
At mouth	*560
About 0.47 mile upstream of Illinois Central Gulf Railroad (upstream crossing)	*571
<b>Maps available for inspection at the Lincoln County Planning Office, County Highway De- partment Building, 529 South McLean, Lincoln, Illinois.</b>	
Send comments to The Honorable Richard Hurley, Chairman, County Board, Logan County, County Courthouse, Lincoln, Illinois 62656.	
<b>Menard County (unincorporated areas)</b>	
<i>Grove Creek:</i>	
Just upstream of State Route 29	*527
Just downstream of Farm Access Road	*533
<i>Sangamon River:</i>	
About 1.5 miles downstream of State Route 123	*502
About 1.2 miles upstream of County Route 2	*508
<b>Maps available for inspection at the County Zoning Office, County Courthouse, Petersburg, Illinois.</b>	
Send comments to The Honorable Murle Kirby, Chairman, County Board, Menard County, County Courthouse, P.O. Box 456, Petersburg, Illinois 62675-0456.	
<b>Minooka (village), Grundy and Will Counties</b>	
<i>Du Page River:</i>	
About 4200 feet downstream of Channahon Road	*525
Just downstream of Channahon Road	*527
<b>Maps available for inspection at the Village Hall, 123 Mondamin Street, Minooka, Illinois.</b>	
Send comments to The Honorable Michael Flem- ing, Village President, Village of Minooka, Vil- lage Hall, 123 Mondamin Street, Minooka, Illi- nois 60047-0457.	
<b>Morton (village), Tazewell County</b>	
<i>Prairie Creek:</i>	
About 0.72 mile downstream of Broadway Road	*648
Just downstream of Atchison Topeka & Santa Fe Railway	*707
<i>Bull Run Creek:</i>	

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Just upstream of Idlewood Street	*679
About 1550 feet upstream of East Polk Street	*707
<b>Maps available for inspection at the Public Works Department, Village Hall, 120 North Main Street, Morton, Illinois.</b>	
Send comments to The Honorable Robert Herter- stein, Village President, Village of Morton, Vil- lage Hall, 120 North Main Street, Morton, Illinois 61550-0028.	
<b>IOWA</b>	
<b>Hamburg (city), Fremont County</b>	
<i>Nishnabotna River:</i>	
About 750 feet downstream of U.S. Highway 275	*925
About 4360 feet upstream of U.S. Highway 275	*926
<i>Nishnabotna River Levee Overflow:</i>	
About 4700 feet downstream of U.S. Highway 275	*914
Just downstream of "O" Street	*919
<i>Nishnabotna River Overflow (West of Railroad):</i>	
About 825 feet downstream of Washington Street	*913
Just downstream of U.S. Highway 275	*917
<i>Shallow Flooding (overflow from Nishnabotna River):</i>	
Intersection of "Q" Street and Monroe Street	#3
<b>Maps available for inspection at the City Hall, 1201 Main Street, Hamburg, Iowa.</b>	
Send comments to The Honorable Robert Mason, Mayor, City of Hamburg, City Hall, 1201 Main Street, Hamburg, Iowa 51640.	
<b>KANSAS</b>	
<b>Atwood (city), Rawlins County</b>	
<i>North Beaver Creek:</i>	
About 0.63 mile upstream of mouth	*2,834
Just upstream from State Highway 25	*2,838
<i>South Beaver Creek:</i>	
About 0.5 mile upstream of mouth	*2,834
About 0.2 mile upstream of State Street	*2,849
<b>Maps available for inspection at the City Hall, Atwood, Kansas.</b>	
Send comments to The Honorable Robert Creighton, Mayor, City of Atwood, City Hall, 106 South 3rd, Atwood, Kansas 67730.	
<b>Barton County (unincorporated areas)</b>	
<i>Wet Walnut Creek:</i>	
Just upstream of Atchison Topeka and Santa Fe Railroad	*1,833
Just downstream of county boundary	*1,922
<i>Shop Creek:</i>	
About 1.1 miles upstream of State Highway 281	*1,849
At mouth	*1,923
<i>Blood Creek:</i>	
Just downstream of Hoisington Avenue	*1,816
About 0.9 mile upstream of Park Avenue	*1,826
<i>Arkansas River:</i>	
About 1.1 miles downstream of downstream county boundary	*1,741
About 0.8 mile upstream of upstream county boundary	*1,928
<i>Dry Walnut Creek:</i>	
At mouth	*1,843
About 2.5 miles upstream of State Highway 96	*1,875
<i>Ash Creek Tributary A:</i>	
About 650 feet downstream of county boundary	*1,952
About 0.8 mile upstream of county boundary	*1,968
<i>Ash Creek Tributary B:</i>	
About 1800 feet downstream of Bergtal Church Road	*1,942
About 0.8 mile upstream of Bergtal Church Road	*1,968
<i>Ash Creek:</i> Within unincorporated areas	*1,939
<i>Dry Creek:</i>	
At mouth	*1,920
About 2900 feet upstream of Atchison Topeka and Santa Fe Railway	*1,925

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<i>Wet Walnut Creek (right bank overflow):</i>	
About 2.4 miles downstream of Center Street	*1,914
Just upstream of Center Street	*1,919
<i>Shallow flooding (overflow from Blood Creek):</i>	
About 1000 feet southeast of the intersection of Hoisington Avenue and Gould Street	#1.0
About 0.9 mile southeast of U.S. Highway 281 and Unnamed County Highway	#1.0
About 2.3 miles upstream of the Union Pacific Railroad along southern overbank at Wet Walnut Creek	#1.0
<b>Maps available for inspection at the County Courthouse, Great Bend, Kansas.</b>	
Send comments to The Honorable Joannette Shirer, Chairperson, Board of County Commis- sioners, Barton County, County Courthouse, Great Bend, Kansas 67530.	
<b>Dickinson County (unincorporated areas)</b>	
<i>Smoky Hill River:</i>	
About 1.44 miles downstream of State Highway 206	*1,110
About 2.6 miles upstream of County Highway 186	*1,173
<i>Chapman Creek:</i>	
At mouth	*1,110
About 3.3 miles upstream of Union Pacific rail- road	*1,116
<i>Mud Creek:</i>	
At mouth	*1,148
Just downstream of U.S. Highway 40 and Inter- state 70	*1,167
<i>Mud Creek Tributary #1:</i>	
At mouth	*1,159
About 0.4 mile upstream of Atchison, Topeka and Santa Fe Railway	*1,176
<i>Solomon River:</i>	
At mouth	*1,170
About 700 feet upstream of confluence of Solo- mon River Tributary	*1,171
<i>Solomon River Tributary:</i>	
At mouth	*1,171
About 0.78 mile upstream of 7th Street	*1,189
<i>Lyon Creek:</i>	
At county boundary	*1,147
Just downstream of Lyon Creek Dam No. 6	*1,306
Just upstream of Lyon Creek Dam No. 6	*1,344
About 0.27 mile upstream of Oklahoma, Kansas, and Texas Railroad	*1,344
<i>Carry Creek:</i>	
Just upstream of mouth	*1,148
About 4.07 miles upstream of State Highway 209	*1,293
<i>West Branch Lyon Creek:</i>	
At mouth	*1,222
About 11.08 miles upstream of State Highway 218	*1,313
<i>Lime Creek:</i>	
At mouth	*1,253
About 1.15 miles upstream of U.S. Highway 77 and 58	*1,363
<i>Lime Creek Tributary No. 2:</i>	
At mouth	*1,315
Just downstream of U.S. Highway 77	*1,344
Just upstream of U.S. Highway 77	*1,351
<i>Lime Creek Tributary No. 4:</i>	
At mouth	*1,325
Just downstream of Oklahoma, Kansas, and Texas Railroad	*1,341
<i>Turkey Creek:</i>	
At mouth	*1,143
At confluence of East and West Turkey Creeks	*1,257
<i>West Branch Turkey Creek:</i>	
At mouth	*1,180
About 2.36 miles upstream of State Highway 15	*1,253
<i>Turkey Creek Tributary No. 1:</i>	
At mouth	*1,240
At State Highway 4	*1,282
<i>Turkey Creek Tributary No. 2:</i>	
At mouth	*1,244
About 0.45 mile upstream of Union Pacific Rail- road	*1,263
<i>West Turkey Creek:</i>	



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
At mouth.....	*1,257
About 1.97 miles upstream of confluence of Middle Branch Turkey Creek.....	*1,337
<b>East Turkey Creek:</b>	
At mouth.....	*1,257
About 2.0 miles upstream of confluence of East Turkey Creek Tributary No. 5.....	*1,316
<b>Middle Branch Turkey Creek:</b>	
At mouth.....	*1,318
At county boundary.....	*1,324
<b>East Turkey Creek Tributary No. 1:</b>	
At mouth.....	*1,278
About 2.97 miles upstream of confluence of East Turkey Creek Tributary No. 2.....	*1,324
<b>East Turkey Creek Tributary No. 2:</b>	
At mouth.....	*1,266
Just downstream of Turkey Creek Dam No. 8.....	*1,297
<b>Maps available for inspection at the County Zoning Office, County Courthouse, Abilene, Kansas.</b>	
Send comments to The Honorable M.A. Anderson, Chairman, Board of County Commissioners, Dickinson County, County Courthouse, Abilene, Kansas 67410.	
<b>Enterprise (city), Dickinson County</b>	
<b>Smoky Hill River:</b>	
About 0.6 mile downstream of State Highway 43 (Bridge Street).....	*1,130
About 0.6 mile upstream of State Highway 43 (Bridge Street).....	*1,133
<b>Maps available for inspection at the City Office, Enterprise, Kansas.</b>	
Send comments to The Honorable Glenn Decker, Mayor, City of Enterprise, City Office, Box 245, Enterprise, Kansas 67441.	
<b>Herington (city), Dickinson County</b>	
<b>Lime Creek:</b>	
Just upstream of old railroad grade.....	*1,308
About 0.92 mile upstream of Trapp Street.....	*1,339
<b>Lime Creek Tributary No. 2:</b>	
At mouth.....	*1,315
Just downstream of U.S. Highway 77.....	*1,344
<b>Lime Creek Tributary No. 4:</b>	
At mouth.....	*1,325
About 400 feet upstream of 9th and Trapp Streets.....	*1,331
<b>Maps available for inspection at the City Hall, Herington, Kansas.</b>	
Send comments to The Honorable Dave Ollen Berger, Mayor, City of Herington, City Hall, P.O. Box 31, Herington, Kansas 67449.	
<b>LOUISIANA</b>	
<b>Port Vincent (village), Livingston Parish</b>	
<b>Amite River:</b>	
At confluence of Colvill Bay.....	*12
Approximately 300 feet southeast of State Route 16 over Willis Bayou.....	*16
<b>Colvill Bay:</b>	
Approximately 0.40 mile downstream of State Route 16 & 42.....	*12
Approximately 175 feet upstream of State Route 16 & 42.....	*13
Grays Creek: Entire length within community.....	*16
<b>Maps available for inspection at the Port Vincent Community Center, Port Vincent, Louisiana, and the Livingston Parish Permit Department, Courthouse, Livingston, Louisiana.</b>	
Send comments to The Honorable Peggy Savoy, Mayor of the Village of Port Vincent, Livingston Parish, 19090 Louisiana Highway 16, Port Vincent, Louisiana 70726.	
<b>Sulphur (city), Calcasieu Parish</b>	
<b>Bayou d' Inde:</b>	
Downstream corporate limits.....	*11

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 600 feet upstream of Arizona Street.....	*14
Approximately 1,840 feet upstream of Lewis Street.....	*15
<b>Gilbert Lateral:</b>	
Confluence with Bayou d' Inde.....	*11
Upstream side of Logan Street.....	*12
Downstream side of West Lyons Street.....	*13
Upstream corporate limits.....	*18
<b>Maple Fork Bayou:</b>	
Downstream corporate limits.....	*9
Upstream corporate limits.....	*10
<b>Dick Arkel Bayou:</b>	
Confluence with Gilbert Lateral.....	*12
Upstream corporate limits.....	*14
<b>Sumpter Bayou:</b>	
Confluence with Gilbert Lateral.....	*11
Upstream corporate limits.....	*15
<b>Lateral A of Maple Fork Bayou:</b>	
Confluence with Maple Fork Bayou.....	*9
Upstream corporate limits.....	*13
<b>Lateral B of Maple Fork Bayou:</b>	
Confluence with Maple Fork Bayou.....	*9
Approximately 2,675 feet above confluence with Maple Fork Bayou.....	*14
<b>Bayou d' Inde Lateral:</b>	
Confluence with Bayou d' Inde.....	*13
Upstream corporate limits.....	*13
<b>Maps available for inspection at the City Hall, 500 N. Huntington, Sulphur, Louisiana.</b>	
Send comments to The Honorable Dennis Sumpter, Mayor of the City of Sulphur, Calcasieu Parish, P.O. Box 1309, Sulphur, Louisiana 70664.	
<b>MAINE</b>	
<b>Madison (town), Somerset County</b>	
<b>Kennebec River:</b>	
Downstream corporate limits.....	*184
Upstream side of Anson Dam.....	*254
At confluence of Pooler Brook.....	*265
At Old Patterson Bridge site.....	*269
Upstream corporate limits.....	*272
<b>West Branch Wesserunnett Stream:</b>	
Downstream corporate limits.....	*261
Upstream side of Lower West Branch Wesser- unnett Dam.....	*333
At confluence with Hayden (Wesserunnett) Dam.....	*337
<b>Jones Brook:</b>	
At confluence with Kennebec River.....	*230
Upstream side of U.S. Route 201 A/State Route 8.....	*263
Approximately 750 feet upstream of Shusta Road.....	*300
<b>Maps available for inspection at the Select- men's Office Vault, Madison, Maine.</b>	
Send comments to The Honorable Norman Dean, Chairman of the Town of Madison Board of Selectmen, Somerset County, P.O. Box 190, Madison, Maine 04950.	
<b>Skowhegan (town), Somerset County</b>	
<b>Kennebec River:</b>	
Downstream corporate limits.....	*126
Confluence of Wesserunnett Stream.....	*130
Confluence of Kennebec River and North Chan- nel.....	*153
Confluence of Whitten Brook.....	*162
Upstream corporate limits.....	*166
<b>Wesserunnett Stream:</b>	
At confluence with Kennebec River.....	*130
Approximately 159 feet downstream of Notch Road.....	*142
Approximately 100 feet upstream of Notch Road.....	*159
<b>Currier Brook:</b>	
At confluence with Kennebec River.....	*153
Approximately 100 feet upstream of U.S. Route 201.....	*180
Upstream side of Hathaway Street.....	*191
Upstream side of Fairview Avenue.....	*198

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Confluence of East Branch, Currier Brook.....	*223
Upstream side of Bigelow Hill Road at most downstream crossing.....	*225
Approximately 50 feet upstream of most up- stream crossing of Bigelow Hill Road.....	*287
<b>Whitten Brook:</b>	
At confluence with Kennebec River.....	*162
Approximately 160 feet upstream of Middle Street.....	*168
Approximately 115 feet upstream of Whitten Road.....	*181
Approximately 180 feet upstream of Spring Street.....	*196
<b>Kennebec River, North Channel:</b>	
At confluence with Kennebec River.....	*153
At divergence from Kennebec River.....	*162
<b>East Branch, Currier Brook:</b>	
Upstream side of Back Road.....	*247
Approximately 650 feet downstream of Bloom- field Road.....	*270
Approximately 500 feet upstream of Bloomfield Road.....	*319
<b>Maps available for inspection at the Planning Office, Skowhegan, Maine.</b>	
Send comments to The Honorable Warren Shay, Chairman of the Board of Selectmen for the Town of Skowhegan, Somerset County, Municipal Building, 90 Water Street, Skowhegan, Maine 04976.	
<b>MASSACHUSETTS</b>	
<b>Huntington (town), Hampshire County</b>	
<b>Westfield River:</b>	
At downstream corporate limits.....	*340
At confluence of Middle Branch.....	*402
At upstream corporate limits.....	*475
<b>Middle Branch:</b>	
At confluence with Westfield River.....	*402
Approximately 0.7 mile upstream of Goss Hill Road.....	*445
<b>West Branch Westfield River:</b>	
At confluence with Westfield River.....	*354
At upstream corporate limits.....	*429
<b>Pond Brook:</b>	
At confluence with Westfield River.....	*451
Approximately .56 mile downstream of Bean Hill Road.....	*525
Approximately 1,650 feet downstream of Bean Hill Road.....	*600
Approximately 500 feet downstream of Bean Hill Road.....	*675
Approximately 625 feet upstream of Bean Hill Road.....	*750
Approximately 1,650 feet upstream of Bean Hill Road.....	*825
Approximately .46 mile upstream of Bean Hill Road.....	*900
Approximately 1,575 feet downstream of Cullen Road.....	*975
At upstream side of Cullen Road.....	*1,053
Approximately 1.02 miles upstream of Searles South Road.....	*1,107
<b>Tributary to Westfield River:</b>	
At confluence with Westfield River.....	*384
Approximately 1,400 feet upstream of State Route 112.....	*415
At upstream side of Basket Road.....	*463
<b>Maps available for inspection at the Town Clerk's Vault, Town Hall, Huntington, Massachu- setts.</b>	
Send comments to The Honorable Roland Ber- nier, Chairman of the Town of Huntington Board of Selectmen, Hampshire County, Town Hall, Huntington, Massachusetts 01050.	
<b>MINNESOTA</b>	
<b>Mahnomen (city), Mahnomen County</b>	
<b>Wild Rice River:</b>	
About 1.2 miles downstream of the Soo Line Railway.....	*1,185



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
About 0.9 mile downstream of the Soo Line Railway.....	*1,187
<b>Maps available for inspection at the City Hall, Mahnomen, Minnesota.</b>	
Send comments to The Honorable John Mercy, Mayor, City of Mahnomen, City Hall, Mahno- men, Minnesota 56557.	
<b>MISSISSIPPI</b>	
<b>Beaumont (town), Perry County</b>	
<i>Carler Creek:</i>	
At mouth.....	*89
About 0.85 mile upstream of Railroad Street.....	*97
<i>Leaf River:</i>	
About 3,300 feet downstream of State Highway 15.....	*89
About 2,400 feet upstream of State Highway 15.....	*91
<b>Maps available for inspection at the City Hall, Beaumont, Mississippi.</b>	
Send comments to The Honorable Alvin Small, Mayor, Town of Beaumont, P.O. Box 418, Beaumont, Mississippi 39423.	
<b>Clarke County (unincorporated areas)</b>	
<i>Soulnovey Creek:</i>	
About 2,500 feet downstream of U.S. Highway 512.....	*249
About 2,900 feet upstream of U.S. Highway 512.....	*251
<i>Chickasaw River:</i>	
About 4,200 feet downstream of DeSoto-Brewer Road.....	*215
At confluence of Chunky River.....	*255
<i>Chunky River:</i>	
At mouth.....	*255
At county boundary.....	*266
<b>Maps available for inspection at the County Courthouse, Quitman, Mississippi.</b>	
Send comments to The Honorable Jerry Risher, Acting President, Board of Supervisors, Clarke County, P.O. Drawer M, Quitman, Mississippi 39355.	
<b>Copiah County (unincorporated areas)</b>	
<i>Pearl River:</i>	
About 1.1 miles downstream of State Highway 28.....	*229
About 1.0 mile upstream of State Highway 28.....	*233
<b>Maps available for inspection at the County Courthouse, Hazlehurst, Mississippi.</b>	
Send comments to The Honorable Tony L. Smith, President, County Board of Supervisors, Copiah County, P.O. Box 551, Hazlehurst, Mississippi 39083.	
<b>George County (unincorporated areas)</b>	
<i>Pascagoula River:</i>	
About 3.7 miles downstream of Abandoned Bridge.....	*34
About 500 feet upstream of Abandoned Bridge.....	*39
<i>Escatawpa River:</i>	
About 0.94 mile downstream of confluence of Rocky Creek.....	*81
About 0.82 mile upstream of confluence of Brushy Creek.....	*90
<b>Maps available for inspection at the County Courthouse, Lucedale, Mississippi.</b>	
Send comments to The Honorable Ralph Fairley, President, County Board of Supervisors, George County, County Courthouse, Lucedale, Missis- sippi 39452.	
<b>Stonewall (town), Clarke County</b>	
<i>Chickasaw River:</i>	
About 1,200 feet downstream of River Road.....	*238
About 1.5 miles upstream of River Road.....	*243
<b>Maps available for inspection at the City Hall, Stonewall, Mississippi.</b>	

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to The Honorable Ardell Covington, Mayor, City of Stonewall, P.O. Box 835, Stonewall, Mississippi 39363.	
<b>Wayne County (unincorporated areas)</b>	
<i>Chickasaw River:</i>	
About 3.3 miles downstream of State Highway 63.....	*151
Just downstream of Spring Street.....	*175
<b>Maps available for inspection at the County Courthouse, Waynesboro, Mississippi.</b>	
Send comments to The Honorable Artis Clay, President, Board of Supervisors, Wayne County, County Courthouse, Waynesboro, Mississippi 39367.	
<b>Waynesboro (city), Wayne County</b>	
<i>Chickasaw River:</i>	
About 1.9 miles downstream of State Highway 63.....	*155
About 0.7 mile upstream of U.S. Highway 84.....	*172
<b>Maps available for inspection at the City Hall, Waynesboro, Mississippi.</b>	
Send comments to The Honorable T.J. Gordon, Mayor, City of Waynesboro, P.O. Box 388, Waynesboro, Mississippi 39367.	
<b>MISSOURI</b>	
<b>Ava (city), Douglas County</b>	
<i>Prairie Creek:</i>	
About 2,300 feet downstream of SW 4th Avenue.....	*1,172
Just downstream of State Highway 5.....	*1,197
Just upstream of State Highway 5.....	*1,214
About 1,800 feet upstream of NW 3rd Avenue.....	*1,231
<i>Prairie Creek Tributary A:</i>	
At mouth.....	*1,217
Just downstream of State Highway 5.....	*1,222
<i>Prairie Creek Tributary:</i>	
About 800 feet downstream of county road.....	*1,172
Just downstream of State Highway 5.....	*1,222
<b>Maps available for inspection at the City Hall, Ava, Missouri.</b>	
Send comments to The Honorable Buddy Norman, Mayor, City of Ava, City Hall, Box 206, Ava, Missouri 65608.	
<b>Mississippi County (unincorporated areas)</b>	
<i>Mississippi River:</i>	
About 39.3 miles downstream of confluence of Ohio River (at county boundary).....	*314
About 27.2 miles upstream of confluence of Ohio River (at county boundary).....	*338
<i>Birds Point-New Madrid Floodway:</i>	
At intersection of County Highway 521 and County Highway 524.....	*309
About 1.0 mile east of intersection of U.S. Highway 60 and County Highway 301.....	*322
<i>Big Lake Ditch: Within community.....</i>	*318
<i>Shallow Flooding (overflow from Birds Point-New Madrid Levee Ditch):</i>	
Intersection of County Highway 525 and County Highway 716.....	*301
Intersection of Highway K and County Highway 205.....	*317
<i>Shallow Flooding (overflow from North Cut Ditch):</i>	
About 1.5 miles downstream of County Line Road.....	*305
About 1.2 miles upstream of Highway O.....	*318
<i>Shallow Flooding (overflow from Ash Slough Ditch):</i>	
About 1.2 miles downstream of Highway CC.....	*302
About 800 feet downstream of Missouri Pacific Railroad.....	*312
<i>Shallow Flooding (overflow from Main Ditch No. 10):</i>	
Just downstream of State Highway 80.....	*301
Just downstream of County Highway 412.....	*310

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<i>Shallow Flooding (overflow from Maple Slough Ditch):</i>	
About 1.0 mile downstream of County Highway 532.....	*301
About 1.1 miles upstream of U.S. Route 62.....	*322
<i>Shallow Flooding (overflow from St. James Ditch):</i>	
Just upstream of County Highway 716.....	*301
About 1.1 miles upstream of County Highway 406.....	*317
<i>Shallow Flooding (overflow from Wolf Hole Later- al No. 2):</i>	
At mouth.....	*303
Just downstream of Interstate 57.....	*320
<i>Shallow Flooding (overflow from Stevenson Bayou):</i>	
At mouth.....	*313
Just downstream of Interstate 57.....	*317
<b>Maps available for inspection at the County Clerk's Office, County Courthouse, Charleston, Missouri.</b>	
Send comments to The Honorable Fred DeField, Presiding Commissioner, Mississippi County, County Courthouse, P.O. Box 304, Charleston, Missouri 63834.	
<b>MONTANA</b>	
<b>Baker (city), Fallon County</b>	
<i>Sandstone Creek:</i>	
Approximately 470 feet downstream of Chicago, Milwaukee, Saint Paul, and Pacific Railroad.....	*2,920
Approximately 4,200 feet upstream from Main Street.....	*2,932
<i>Baker Lake Tributary:</i>	
At Sixth Street West.....	*2,919
Approximately 50 feet downstream of Lake Street.....	*2,935
<b>Maps are available for review at the Fallon County Courthouse, Office of Clerk and Record- er, 10 West Fallon Street, Baker, Montana.</b>	
Send comments to Mayor J.D. Kyle, P.O. Drawer C, Baker, Montana 59313.	
<b>Fallon County (unincorporated areas)</b>	
<i>Sandstone Creek:</i>	
Approximately 9,400 feet downstream of Sewage Lagoon Road.....	*2,891
At County Road 673.....	*2,924
Approximately 50 feet upstream of County Road 639 (Oil Field Road).....	*2,940
Approximately 4,100 feet upstream of a service road.....	*2,990
<i>Baker Lake Tributary:</i>	
At confluence with Sandstone Creek.....	*2,918
Approximately 1,230 feet upstream of confluence with Sandstone Creek.....	*2,919
<i>Northern Tributary:</i>	
Approximately 920 feet upstream of the confluence with Sandstone Creek.....	*2,926
Approximately 1,200 feet upstream of County Road 493.....	*2,942
<i>Northeastern Tributary:</i>	
Approximately 1,000 feet upstream of the confluence with Sandstone Creek.....	*2,928
Approximately 1,575 feet upstream of a service road.....	*2,972
<i>Unnamed Tributary to Northeastern Tributary:</i>	
At confluence with Northeastern Tributary.....	*2,940
Approximately 120 feet upstream of County Road 639 (Oil Field Road).....	*2,944
<i>Unnamed Tributary to Sandstone Creek:</i>	
Approximately 100 feet upstream of County Road 638.....	*2,947
Approximately 2,280 feet upstream of County Road 638.....	*2,949
<b>Maps are available for review at the Fallon County Courthouse, Office of Clerk and Record- er, 10 West Fallon Street, Baker, Montana.</b>	



PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued		PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued		PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued	
Source of flooding and location	#Depth in feet above ground, Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground, Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground, Elevation in feet (NGVD)
Send comments to Mr. Barry Lang, Chairman, Fallon County Board of Commissioners, P.O. Box 846, Baker, Montana 59313.		<b>Maps available for inspection at the Village Office, Camden, New York.</b>		Confluence with Clove Mountain Creek.....	
<b>NEBRASKA</b>		Send comments to The Honorable J. O'Rourke, Mayor of the Village of Camden, Oneida County, Village Office, 14 Church Street, Camden, New York 13316.		Approximately 2,800 feet upstream of confluence with Clove Mountain Creek.....	
<b>Aurora (city), Hamilton County</b>		<b>Chestnut Ridge (village), Rockland County</b>		Approximately 1,300 feet downstream of Bloomer Road.....	
<i>Lincoln Creek:</i>		<i>Pascack Brook:</i>		Approximately 380 feet upstream of Bloomer Road.....	
About 2,350 feet downstream of Q Street.....		At downstream corporate limits.....		<i>Willow Brook:</i>	
About 400 feet upstream of Burlington Northern railroad.....		Downstream side of dam.....		Confluence with Sprout Creek.....	
<b>Maps available for inspection at the City Hall, Aurora, Nebraska.</b>		Upstream side of dam.....		Approximately 1,600 feet upstream of Tompkins Road.....	
Send comments to The Honorable Ray Griffin, Mayor, City of Aurora, City Hall, 905 13th Street, Aurora, Nebraska 68818.		Approximately 60 feet upstream of Lillian Drive.....		At Waterbury Hill Road crossing.....	
<b>NEW MEXICO</b>		At upstream corporate limits.....		Approximately 450 feet upstream of third upstream crossing of County Route 9.....	
<b>Aztec (city), San Juan County</b>		<i>Pine Brook:</i>		<b>Maps available for inspection at the Town Hall, R.R. 2, Lagrangeville, New York.</b>	
<i>Animas River:</i>		At downstream corporate limits.....		Send comments to The Honorable Donald Wiseman, Supervisor of the Town of Union Vale, Dutchess County, R.R. 2, Box 180, Lagrangeville, New York 12540.	
Approximately 150 feet downstream of the downstream corporate limits.....		Upstream side of Pine Brook Road.....		<b>Vernon (town), Oneida County</b>	
Approximately 300 feet upstream of U.S. Route 550.....		Upstream side of Lakeside School Entrance Drive & Dam.....		<i>Sconandaa Creek:</i>	
<i>Hampton Arroyo:</i>		At upstream corporate limits.....		At downstream corporate limits.....	
Approximately 750 feet upstream of confluence with Animas River.....		<i>Hungry Hollow Brook:</i>		Approximately 900 feet downstream of Elmwood Place.....	
Maddox Avenue extended.....		At confluence with Pine Brook.....		Downstream side of Filley Road.....	
At the upstream corporate limits.....		Upstream side of 1st Hungry Hollow Road crossing.....		At the downstream corporate limits of the Village of Vernon.....	
<b>Maps available for inspection at the City Hall, 201 West Chaco, Aztec, New Mexico.</b>		Upstream side of 2nd Hungry Hollow Road crossing.....		Downstream side of second upstream crossing of State Route 31.....	
Send comments to The Honorable Ray Richardson, Mayor of the City of Aztec, San Juan County, 201 West Chaco, Aztec, New Mexico 87410.		At upstream corporate limits.....		Upstream side of Norton Road.....	
<b>San Juan County (unincorporated areas)</b>		<b>Maps available for inspection at the Village Clerk's Office, Chestnut Ridge, New York.</b>		At upstream corporate limits.....	
<i>Animas River:</i>		Send comments to The Honorable Jerome Kobre, Mayor of the Village of Chestnut Ridge, Rockland County, 13 Hubert Humphrey Drive, Chestnut Ridge, New York 10977.		<b>Maps available for inspection at the Town Office, North Sconandaa and Front Street, Vernon, New York.</b>	
Approximately 5,500 feet upstream of Farmington corporate limits.....		<b>Union Vale (town), Dutchess County</b>		Send comments to The Honorable E. Bellinger, Supervisor of the Town of Vernon, Oneida County, Town Offices, P.O. Box 263, Vernon, New York 13476.	
Confluence of Reeline Reservoir Tributary.....		<i>Clove Brook:</i>		<b>NORTH CAROLINA</b>	
Confluence of Flora Vista Arroyo.....		Confluence with Pray Pond.....		<b>Ashe County (unincorporated areas)</b>	
Approximately 2.0 miles downstream of Aztec corporate limits.....		Confluence of Seeley Creek.....		<i>North Fork New River:</i>	
At City of Aztec downstream corporate limits.....		<i>Clove Mountain Creek:</i>		About 900 feet downstream of SR 1549.....	
Approximately 500 feet downstream of confluence with Williams Arroyo.....		Confluence with Jackson Creek.....		Just downstream of Weir Dam.....	
<i>San Juan River:</i>		Approximately 80 feet upstream of the downstream crossing of West Clove Mountain Road.....		Just upstream of Weir Dam.....	
Approximately 3.3 miles downstream of confluence with Shumway Arroyo.....		Approximately 1,660 feet upstream of the downstream crossing of West Clove Mountain Road.....		Just downstream of SR 1119.....	
At confluence with Shumway Arroyo.....		Upstream side of the upstream crossing of Clove Mountain Road.....		Just upstream of SR 1119.....	
At confluence with Stevens Arroyo.....		Approximately 3,060 feet upstream of the upstream crossing of West Clove Mountain Road.....		About 3,700 feet upstream of SR 1118 (most upstream crossing).....	
At confluence with Coolidge Arroyo.....		<i>Fishkill Creek:</i>		<i>Helton Creek:</i> Within unincorporated areas.....	
Approximately 3,500 feet upstream of confluence with Locke Arroyo.....		Approximately 3,020 feet downstream of Lime Mill Road.....		<i>Buffalo Creek:</i>	
Approximately 1,000 feet upstream of confluence with Head Canyon.....		Upstream side of McKinney Pond Dam.....		At mouth.....	
At confluence with Stewart Canyon.....		Upstream side of Pray Pond Dam.....		Just downstream of SR 1506 (upstream crossing).....	
Approximately 1.5 miles upstream of confluence with Gallegos Canyon.....		<i>Jackson Creek:</i>		<i>Little Buffalo Creek:</i>	
At confluence with Horn Canyon.....		Approximately 3,280 feet downstream of State Route 55.....		About 2,800 feet upstream of mouth.....	
Approximately 1.4 miles downstream of State Route 44.....		Upstream side of Wiseman Road.....		About 1.2 miles upstream of mouth.....	
<b>Maps available for inspection at the County Courthouse, Aztec, New Mexico.</b>		Upstream side of North Parliament Road.....		<i>Three Top Creek:</i>	
Send comments to The Honorable Robert Karlin, San Juan County Judge, 112 South Mesa Verde, Aztec, New Mexico 87410.		Approximately 1,800 feet downstream of downstream crossing of Waterbury Hill Road.....		At mouth.....	
<b>NEW YORK</b>		Approximately 20 feet upstream of upstream crossing of Waterbury Hill Road.....		About 1.1 miles upstream of mouth.....	
<b>Camden (village), Oneida County</b>		<i>Seeley Creek:</i>		<i>Hoskins Fork:</i>	
<i>West Branch Fish Creek:</i>		Confluence with Clove Brook.....		At mouth.....	
Approximately 820 feet downstream of corporate limits.....		Approximately 440 feet upstream of County Route 9.....		About 2.0 miles upstream of mouth.....	
At upstream corporate limits.....		<i>Sprout Creek:</i>		<i>South Fork New River:</i>	
<i>Mad River:</i>		Approximately 2,000 feet downstream of Verbank Village Road.....		About 4,000 feet downstream of SR 1308.....	
At the confluence with the West Branch Fish Creek.....		Approximately 40 feet upstream of Verbank Village Road.....		About 2.4 miles upstream of SR 1351.....	
At upstream corporate limits.....		At County Route 90.....		<i>Naked Creek:</i>	
		<i>Sweezy Creek:</i>		At mouth.....	
		Confluence with Clove Brook.....		Just downstream of Old Gambill Convent Road.....	
		Approximately 35 feet upstream of County Route 9.....		Just upstream of Old Gambill Convent Road.....	
		Approximately 580 feet upstream of County Route 9.....		About 1,700 feet upstream of State Road 88 (downstream crossing).....	
		<i>Walsh Creek:</i>		<i>Little Naked Creek:</i>	
				At mouth.....	
				About 1,450 feet upstream of mouth.....	
				<i>Bower Walter's Creek:</i>	
				At mouth.....	
				About 2,000 feet upstream of mouth.....	



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—ContinuedPROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—ContinuedPROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Ezra Fork Creek:</b>		Just upstream of confluence of Little Mulberry Creek.....	*1,131	<b>Abingdon Creek:</b>	
At mouth.....	*2,793	<b>Gunpowder Creek:</b>		About 750 feet upstream of Morganton Boulevard.....	*1,062
About 2,000 feet upstream of mouth.....	*2,818	About 1.38 miles downstream of SR 1809.....	*1,115	About 250 feet upstream of Kincaid Hill Road.....	*1,087
<b>Beaver Creek:</b>		About 0.66 mile upstream of SR 1809.....	*1,153	<b>Lower Creek:</b>	
At mouth.....	*2,786	<b>Maps available for inspection at the County Courthouse, Lenoir, North Carolina.</b>		About 2,600 feet upstream of confluence of Abingdon Creek.....	*1,056
Just downstream of Ashe Lake Road.....	*2,827	Send comments to The Honorable William D. Forbes, County Manager, Caldwell County, P.O. Box 1078, Lenoir, North Carolina 28645.		Just downstream of Complex Street.....	*1,068
Just upstream of Ashe Lake Road.....	*2,833			Just upstream of Complex Street.....	*1,074
Just downstream of Private Road (about 1,600 feet upstream of confluence of Tributary A).....	*3,035			About 700 feet upstream of Cedar Rock Road (downstream crossing).....	*1,128
Just upstream of Private Road (about 1,600 feet upstream of confluence of Tributary A).....	*3,043			<b>Greasy Creek:</b>	
Just upstream of SR 1144.....	*3,116			At mouth.....	*1,066
<b>Tributary A:</b>		<b>Gamewell (town), Caldwell County</b>		About 1,700 feet upstream of Harper Avenue (State Road 18A).....	*1,075
At mouth.....	*3,014	<b>Lower Creek:</b>		<b>Spainhour Creek:</b>	
Just downstream of U.S. Route 221.....	*3,019	About 2,900 feet downstream of SR 1142.....	*1,030	At mouth.....	*1,122
About 325 feet upstream of U.S. Route 221.....	*3,026	About 1.4 miles upstream of SR 1143.....	*1,056	About 500 feet upstream of Blowing Rock Boulevard.....	*1,163
Just downstream of SR 1136.....	*3,028	<b>Abingdon Creek:</b>		<b>Blairs Fork Creek:</b>	
Just upstream of SR 1136.....	*3,038	At mouth.....	*1,052	At mouth.....	*1,075
Just downstream of SR 1188.....	*3,062	About 750 feet upstream of Morganton Boulevard.....	*1,062	About 650 feet upstream of Cellu Products Access Road.....	*1,177
Just upstream of SR 1188.....	*3,067	<b>Maps available for inspection at the Town Hall, Gamewell, North Carolina.</b>		<b>Maps available for inspection at the City Hall, Lenoir, North Carolina.</b>	
About 1,000 feet upstream of SR 1188.....	*3,089	Send comments to The Honorable William W. Mikeal, Mayor, Town of Gamewell, Route 6, Box 241A, Lenoir, North Carolina 28645.		Send comments to The Honorable Robert A. Gibbons, Mayor, City of Lenoir, P.O. Box 958, Lenoir, North Carolina 28645.	
<b>Tributary B:</b>				<b>McDowell County (unincorporated areas)</b>	
At mouth.....	*3,093	<b>Hudson (town), Caldwell County</b>		<b>North Fork Catawba River:</b>	
About 1,400 feet upstream of mouth.....	*3,129	<b>Gunpowder Creek:</b>		About 1.4 miles above mouth.....	*1,225
<b>Cole Branch:</b>		About 1,700 feet downstream of Hickory Boulevard.....	*1,146	Just downstream of CSX railroad (downstream crossing).....	*1,285
At mouth.....	*2,949	At the confluence of Little Gunpowder Creek.....	*1,182	Just upstream of CSX railroad (downstream crossing).....	*1,297
Just downstream of SR 1151.....	*3,011	<b>Little Gunpowder Creek:</b>		Just upstream of S.R. 1560.....	*1,400
Just upstream of SR 1151.....	*3,016	At mouth.....	*1,182	Just downstream of S.R. 1569.....	*1,502
About 1,800 feet upstream of SR 1151.....	*3,046	Just downstream of Norwood Street.....	*1,189	About 2.21 miles upstream of S.R. 1569.....	*1,601
<b>Maps available for inspection at the County Manager's Office, Jefferson, North Carolina.</b>		<b>Maps available for inspection at the Town Hall, Hudson, North Carolina.</b>		Just downstream of U.S. Route 221.....	*1,729
Send comments to The Honorable Larry South, County Manager, Ashe County, P.O. Box 633, Jefferson, North Carolina 28640.		Send comments to The Honorable Joseph W. Icard, Mayor, Town of Hudson, P.O. Box 457, Hudson, North Carolina 28638.		Just upstream of U.S. Route 221.....	*1,737
<b>Cajah Mountain (town), Caldwell County</b>				About 3,000 feet upstream of CSX railroad (upstream crossing).....	*1,800
<b>Little Gunpowder Creek:</b>		<b>Jefferson (town), Ashe County</b>		About 1.40 miles upstream of CSX railroad (upstream crossing).....	*1,898
At Walt Arney Road.....	*1,213	<b>Naked Creek:</b>		Just downstream of S.R. 1571.....	*1,968
About 700 feet upstream of Walt Arney Road.....	*1,218	About 2,150 feet downstream of Tyson Lane.....	*2,848	About upstream of S.R. 1571.....	*1,974
<b>Maps available for inspection at the Town Hall, Cajah Mountain, North Carolina.</b>		Just upstream of U.S. Route 221.....	*2,917	About 250 feet upstream of S.R. 1571.....	*1,979
Send comments to The Honorable Ray Beame, Chairman, Board of Aldermen, Town of Cajah Mountain, P.O. Box 2586, Lenoir, North Carolina 28645.		<b>Maps available for inspection at the City Hall, Jefferson, North Carolina.</b>		<b>Mill Creek:</b>	
<b>Caldwell County (unincorporated areas)</b>		Send comments to The Honorable Michael Dixon, City Manager, Town of Jefferson, City Hall, P.O. Box 67, Jefferson, North Carolina 28640.		At mouth.....	*1,416
<b>Blairs Fork Creek: Within Unincorporated Areas</b>				About 2,100 feet upstream of S.R. 1401.....	*1,487
<b>Lower Creek:</b>		<b>Jones County (unincorporated areas)</b>		<b>Catawba River:</b>	
About 0.81 mile downstream of SR 1142.....	*1,029	<b>Neuse River: Along the Trent River from the confluence of the Reedy Branch to about 1.5 miles upstream from Main Street in Pollocksville.</b>		About 250 feet upstream of S.R. 1501.....	*1,210
About 0.57 mile upstream of SR 1705 (upstream crossing).....	*1,192	<b>Southwest Creek: Within county</b>		Just downstream of U.S. Route 221.....	*1,226
<b>Zacks Fork Creek:</b>		<b>Maps available for inspection at the County Courthouse, Trenton, North Carolina.</b>		Just upstream of U.S. Route 221.....	*1,231
About 200 feet upstream of Cottrell Hill Road.....	*1,167	Send comments to The Honorable Larry Meadows, County Manager, Jones County, Box 266, Trenton, North Carolina 28555.		Just downstream of Norfolk Southern Railway.....	*1,292
About 1.34 miles upstream of Cottrell Hill Road.....	*1,202			Just upstream of Norfolk Southern Railway.....	*1,297
<b>Abingdon Creek:</b>		<b>Lenoir (city), Caldwell County</b>		Just downstream of Interstate 40.....	*1,340
About 250 feet upstream of Kincaid Hill Road.....	*1,087	<b>Little Gunpowder Creek:</b>		Just upstream of Interstate 40.....	*1,348
About 800 feet upstream of Kincaid Hill Road.....	*1,089	At mouth.....	*1,182	Just downstream of S.R. 1234.....	*1,359
<b>Smoky Creek:</b>		About 300 feet upstream of Walt Arney Road.....	*1,217	Just upstream of S.R. 1234.....	*1,364
At county boundary.....	*1,094	<b>Gunpowder Creek:</b>		About 3,950 feet upstream of S.R. 1273.....	*1,450
About 1,500 feet upstream of SR 1134.....	*1,141	At the confluence of Angley Creek.....	*1,178	About 2.4 miles upstream of S.R. 1273.....	*1,532
<b>Yadkin River:</b>		Just downstream of Hickory Boulevard.....	*1,261	<b>Armstrong Creek:</b>	
About 1,900 feet downstream of State Road 268 (downstream crossing).....	*1,157	Just upstream of Hickory Boulevard.....	*1,274	At mouth.....	*1,383
About 1.0 mile upstream of State Road 268 (upstream crossing).....	*1,255	About 750 feet upstream of Mt. Herman Road.....	*1,290	Just upstream of farm access road.....	*1,455
<b>Wilson Creek:</b>		<b>Zacks Fork Creek:</b>		About 0.76 miles upstream of farm road.....	*1,531
At mouth.....	*1,056	At mouth.....	*1,092	<b>Maps available for inspection at the County Courthouse, Marion, North Carolina.</b>	
About 1.04 miles upstream of SR 1337.....	*1,106	Just downstream of Powell Road.....	*1,121	Send comments to The Honorable Chuck Abernathy, County Manager, McDowell County, P.O. Box 1450, Marion, North Carolina 28752.	
About 0.60 mile downstream of SR 1328.....	*1,054	Just upstream of Powell Road.....	*1,128	<b>Old Fort (town), McDowell County</b>	
About 1.61 miles upstream of SR 1356 (most upstream crossing).....	*1,209	About 200 feet upstream of Cottrell Hill Road.....	*1,167	<b>Catawba River:</b>	
<b>Little Mulberry Creek:</b>		<b>Zacks Fork Branch:</b>		At confluence of Mill Creek.....	*1,416
At mouth.....	*1,131	At mouth.....	*1,106	Just downstream of S.R. 1103.....	*1,424
About 0.68 mile downstream of SR 1340.....	*1,143	Just upstream of Sherlee Street.....	*1,126	<b>Mill Creek:</b>	
About 0.64 mile downstream of SR 1340.....	*1,148			At mouth.....	*1,416
Just downstream of SR 1340.....	*1,168			Just downstream of Mill Creek Dam.....	*1,437
Just upstream of SR 1340.....	*1,173			Just upstream of Mill Creek Dam.....	*1,445
About 1.27 miles upstream of SR 1340.....	*1,216			About 650 feet downstream of S.R. 1119.....	*1,455
<b>Mulberry Creek:</b>					
At mouth.....	*1,098				



PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued		PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued		PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued	
Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>OHIO</b>		<b>OREGON</b>		Approximately .3 mile upstream of second downstream crossing of Pleasant Ridge Road..	
<b>Darbyville (village), Pickaway County</b>		<b>Deschutes County (unincorporated areas)</b>		<b>Maps available for inspection at the Barrett Township Municipal Building, Route 390, Mountain Home, Pennsylvania.</b>	
<b>Big Darby Creek:</b>		<b>Deschutes River at Tumalo:</b>		Send comments to The Honorable James McGuire, Chairman of the Township of Barrett Board of Supervisors, Monroe County, P.O. Box 214, Route 390, Mountain Home, Pennsylvania 18342.	
About 1.0 mile downstream of State Route 316..	*729	300 feet below River Mile 156.....	*3,137	<b>Bedford (borough), Bedford County</b>	
Just downstream of State Route 316.....	*731	At Tumalo Deschutes Highway Bridge.....	*3,167	<b>Raystown Branch Juniata River:</b>	
<b>Maps available for inspection at the Village Hall, 16671 Main Street-Darbyville, Williamsport, Ohio.</b>		<b>Deschutes River at Sunriver:</b>		At downstream corporate limits.....	
Send comments to The Honorable Beverly Rothgeb, Mayor, Village of Darbyville, Village Hall, 16671 Main Street-Darbyville, Williamsport, Ohio 43164.		At Cardinal Landing Bridge.....	*4,153	Approximately 340 feet upstream of upstream corporate limits.....	
<b>Port Jefferson (village), Shelby County</b>		1,200 feet below Harper Bridge.....	*4,158	<b>Texas Run:</b>	
<b>Great Miami River:</b>		<b>Little Deschutes River:</b>		Approximately 500 feet downstream of West Pitt Street.....	
About 750 feet downstream of Pasco Montra Road.....	*956	At confluence with Deschutes River.....	*4,159	At upstream corporate limits.....	
About 400 feet upstream of Johnston-Slagle Road.....	*959	1,800 feet above South Center Drive Bridge.....	*4,166	<b>Maps available for inspection at the Borough Building, 244 W. Penn Street, Bedford, Pennsylvania.</b>	
<b>Maps available for inspection at the Mayor's Office, Municipal Building, Port Jefferson, Ohio.</b>		At confluence of Paulina Creek.....	*4,182	Send comments to The Honorable James D. Edwards, Mayor of the Borough of Bedford, Bedford County, 244 W. Penn Street, Bedford, Pennsylvania 15522.	
Send comments to The Honorable Richard Maxwell, Mayor, Village of Port Jefferson, Municipal Building, Box 159, Port Jefferson, Ohio 45360.		At upstream side of Stearns Bridge.....	*4,201	<b>Bethel (township), Berks County</b>	
<b>Zanesville (city), Muskingum County</b>		At County boundary between Deschutes and Klamath.....	*4,258	<b>Little Swatara Creek:</b>	
<b>Muskingum River:</b>		<b>Squaw Creek:</b>		Approximately 1,100 feet upstream of corporate limits.....	
At downstream corporate limits.....	*691	100 feet above County boundary between Deschutes and Jefferson.....	*2,587	At Township Route 492.....	
At upstream corporate limits.....	*700	At River Mile 10.00.....	*2,677	<b>Crosskill Creek:</b>	
<b>Licking River:</b>		At River Mile 14.00.....	*2,853	At confluence with Little Swatara Creek.....	
At confluence with Muskingum River.....	*694	120 feet above Camp Polk Bridge.....	*2,992	Approximately 4 mile upstream of LR 06003.....	
At upstream corporate limits.....	*694	At Section line 29/32 in T 15S, R 10E.....	*3,506	<b>Unnamed Tributary #1 to Little Swatara Creek:</b>	
<b>Maps available for inspection at the Municipal Building, 401 Market Street, Zanesville, Ohio.</b>		<b>Maps are available for review at the Deschutes County Courthouse Annex, 1164 N.W. Bond, Bend, Oregon.</b>		Approximately 20 feet upstream of State Route 645.....	
Send comments to The Honorable Donald R. Mason, Mayor of the City of Zanesville, Muskingum County, 401 Market Street, Zanesville, Ohio 43701.		Send comments to The Honorable Lois Bristow Prante, Chairman, Deschutes County Courthouse Annex, 1164 Bond, Bend, Oregon 97701.		Approximately 550 feet upstream of LR 06003.....	
<b>PENNSYLVANIA</b>		<b>Pilot Rock (city), Umatilla County</b>		<b>Unnamed Tributary #2 to Little Swatara Creek:</b>	
<b>Barrett (township), Monroe County</b>		<b>Birch Creek:</b>		Approximately 550 feet downstream of State Route 501.....	
<b>Brodhead Creek:</b>		At confluence of West and East Fork Birch Creek.....	*1,624	Approximately .5 mile upstream of State Route 501.....	
At downstream corporate limits.....	*843	At downstream corporate limit.....	*1,619	<b>Mill Creek:</b>	
At confluence of Spruce Cabin Run.....	*907	<b>West Fork Birch Creek:</b>		Approximately 360 feet upstream of confluence with Little Swatara Creek.....	
At confluence of Goose Pond Run.....	*973	At upstream corporate limit.....	*1,661	Approximately 100 feet downstream of Interstate Route 78.....	
Approximately .3 mile upstream of State Route 390.....	*1,018	Approximately 940 feet upstream of 2nd Street.....	*1,650	<b>Maps available for inspection at the Township Building, Bethel, Pennsylvania.</b>	
<b>Goose Pond Run:</b>		At 2nd Street.....	*1,638	Send comments to The Honorable Dwight D. Miller, Chairman of the Township of Bethel Board of Supervisors, Berks County, R.D. 2, Box 2716, Bethel, Pennsylvania 19507.	
At confluence with Brodhead Creek.....	*973	Just upstream of Birch Street.....	*1,632	<b>Carroll Valley (borough), Adams County</b>	
Approximately 450 feet upstream of Willard Road.....	*1,001	At confluence with East Fork.....	*1,624	<b>Toms Creek:</b>	
<b>Middle Branch Tributary:</b>		<b>Maps are available for review at the Umatilla County Courthouse, 216 SE. Fourth Street, Pendleton, Oregon.</b>		At downstream corporate limits.....	
At confluence with Brodhead Creek.....	*1,018	Send comments to Mayor John Stanley, P.O. Box 130, Pilot Rock, Oregon 97868.		Approximately 350 feet downstream side of Lion Trail.....	
At T-612.....	*1,031	<b>PENNSYLVANIA</b>		At the downstream side of Jacks Mountain Road.....	
<b>Mill Creek:</b>		<b>Barrett (township), Monroe County</b>		At most upstream corporate limits.....	
Approximately 550 feet downstream of T-571.....	*1,094	<b>Brodhead Creek:</b>		<b>Friends Creek:</b>	
Upstream side of State Route 390.....	*1,164	At downstream corporate limits.....	*843	At the confluence with Toms Creek.....	
At Pleasant Ridge Road.....	*1,227	At confluence of Spruce Cabin Run.....	*907	50 feet upstream of the upstream corporate limits.....	
Downstream side of dam.....	*1,276	At confluence of Goose Pond Run.....	*973	<b>Maps available for inspection at the Borough Building, 100 Fairfield Road, Carroll Valley, Pennsylvania.</b>	
At T-577.....	*1,340	Approximately .3 mile upstream of State Route 390.....	*1,018	Send comments to The Honorable Virginia C. Liotta, Manager of the Borough of Carroll Valley, Adams County, P.O. Box C.V., Carroll Valley, Pennsylvania 17320.	
<b>Rattlesnake Creek:</b>		<b>Goose Pond Run:</b>		<b>Clay (township), Huntingdon County</b>	
At confluence with Mill Creek.....	*1,179	At confluence with Brodhead Creek.....	*973	<b>Three Springs Creek:</b>	
Approximately 630 feet downstream of first downstream crossing of Pleasant Ridge Road.....	*1,250	Approximately 450 feet upstream of Willard Road.....	*1,001		
At second downstream crossing of Pleasant Ridge Road.....	*1,289	<b>Middle Branch Tributary:</b>			



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
At downstream abandoned railroad crossing.....	*690
Upstream side of State Route 994.....	*706
Approximately 700 feet upstream of L.R. 31010.....	*714
<b>Maps available for inspection at the Clay Township Election House, Route 655, Three Springs, Pennsylvania.</b>	
Send comments to The Honorable Vivian Miller, Chairperson of the Township of Clay Board of Supervisors, Huntingdon County, R.D. 1, Box 785, Mapleton Depot, Pennsylvania 17052.	
<b>Delaware Water Gap (borough), Monroe County</b>	
<i>Cherry Creek:</i>	
At confluence with Delaware River.....	*322
At upstream corporate limits.....	*325
<i>Delaware River:</i>	
Approximately 550 feet downstream of the downstream corporate limits.....	*314
At the upstream corporate limits.....	*322
<b>Maps available for inspection at the Municipal Building, Main &amp; Sheppard Streets, Delaware Water Gap, Pennsylvania.</b>	
Send comments to The Honorable Duane Walck, Mayor of the Borough of Delaware Water Gap, Monroe County, Borough Office, Main & Sheppard Streets, Delaware Water Gap, Pennsylvania 18327	
<b>Glasgow (borough), Beaver County</b>	
<i>Ohio River:</i>	
At downstream corporate limits.....	*690
At upstream corporate limits.....	*691
<b>Maps available for inspection at the Residence of Ms. Joyce Camp, Borough's Secretary, Midland, Pennsylvania.</b>	
Send comments to The Honorable Daniel Gallagher, Mayor of the Borough of Glasgow, Beaver County, R.D. #1, Midland, Pennsylvania 15059.	
<b>Huntington (township), Adams County</b>	
<i>Bermudian Creek:</i>	
At downstream corporate limits.....	*516
At T-619.....	*535
Upstream side of L.R. 01042.....	*551
Upstream side of U.S. Business Route 15.....	*568
At T-810 extended.....	*606
Downstream side of L.R. 01004.....	*623
Upstream side of L.R. 01011.....	*641
<b>Maps available for inspection at the Township Building, Trolley Road, York Springs, Pennsylvania.</b>	
Send comments to The Honorable Chester Chronister, Chairman of the Township of Huntington Board of Supervisors, Adams County, 7840 Carlisle Pike, York Springs, Pennsylvania 17372.	
<b>Lackawaxen (township), Pike County</b>	
<i>Lackawaxen River:</i>	
At confluence with Delaware River.....	*622
At approximately 2 miles above confluence with Delaware River.....	*647
At Rowland Road.....	*688
At Kimbles Road.....	*830
At upstream corporate limits.....	*864
<i>Delaware River:</i>	
At downstream corporate limits.....	*611
Approximately 5 mile upstream from confluence of Lackawaxen River.....	*624
Confluence of Tenmile River.....	*672
Approximately 2.8 miles upstream from confluence of Tenmile River.....	*688
At upstream corporate limits.....	*694
<b>Maps available for inspection at the Township Building, Lackawaxen, Pennsylvania.</b>	

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to The Honorable Ross U. Rosencrance, Chairman of the Township of Lackawaxen Board of Supervisors, Pike County, P.O. Box 243, Greeley, Pennsylvania 18425.	
<b>Middle Smithfield (township), Monroe County</b>	
<i>Bushkill Creek:</i>	
At T-523.....	*433
At Club House Drive.....	*477
<i>Marshalls Creek:</i>	
Approximately 400 feet downstream of confluence of Newton Run.....	*520
Approximately 0.4 mile upstream of confluence of Newton Run.....	*590
Approximately 1.1 miles upstream of confluence of Newton Run.....	*620
<i>Pond Creek:</i>	
At downstream corporate limits.....	*476
Approximately 900 feet upstream of L.R. 45015.....	*496
<i>Shawnee Creek:</i>	
Approximately 0.4 mile downstream of T-517.....	*467
Approximately 0.4 mile upstream of T-517.....	*471
<b>Maps available for inspection at the Municipal Building, Municipal Drive, East Stroudsburg, Pennsylvania.</b>	
Send comments to The Honorable Thomas F. Bonser, Chairman of the Township of Middle Smithfield Board of Supervisors, Monroe County, R.D. #1, East Stroudsburg, Pennsylvania 18301.	
<b>Paradise (township), Monroe County</b>	
<i>Devils Hole Creek:</i>	
At confluence with Paradise Creek.....	*1,094
At T-559.....	*1,167
Approximately .4 mile upstream of T-559.....	*1,233
<i>Forest Hills Run:</i>	
At confluence with Paradise Creek.....	*795
Downstream side of T-567.....	*866
Approximately .6 mile upstream of T-567.....	*940
Upstream side of L.R. 45075.....	*1,003
Approximately .8 mile upstream of L.R. 45075.....	*1,075
Downstream side of Golf Cart Road.....	*1,141
Approximately 400 feet upstream of L.R. 45100.....	*1,214
<i>Paradise Creek:</i>	
Approximately 415 feet downstream of T-572.....	*636
At State Route 191.....	*710
Approximately 1.7 miles upstream of State Route 191.....	*780
Approximately .4 mile upstream of L.R. 45027.....	*850
Approximately .8 mile upstream of Paradise Drive.....	*925
Downstream side of L.R. 45075.....	*962
At T-603 (most downstream crossing).....	*1,008
Downstream side of T-603 (most upstream crossing).....	*1,075
At T-559.....	*1,151
<i>Swiftwater Creek:</i>	
At downstream corporate limits.....	*969
At upstream corporate limits.....	*1,044
<b>Maps available for inspection at the Paradise Township Building, Cresco, Pennsylvania.</b>	
Send comments to The Honorable John H. Bowman, Jr., Chairman of the Township of Paradise Board of Supervisors, Monroe County, P.O. Box 114, Swiftwater, Pennsylvania 18370.	
<b>Penn (township), Berks County</b>	
<i>Plum Creek:</i>	
At downstream corporate limits.....	*311
At upstream corporate limits.....	*356
<b>Maps available for inspection at the Township Building, North Garfield Road, Bernville, Pennsylvania.</b>	
Send comments to The Honorable Lynwood P. Etchberger, Chairman of the Township of Penn Board of Supervisors, Berks County, P.O. Box 130, Bernville, Pennsylvania 19506.	

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Porter (township), Clinton County</b>	
<i>Fishing Creek:</i>	
At downstream corporate limits.....	*682
Upstream at 2nd crossing of L.R. 18007.....	*713
The upstream side of the downstream crossing of State Route 64.....	*792
The upstream side of L.R. 18041.....	*826
Approximately 50 feet downstream of L.R. 18006.....	*860
<i>Fishing Creek Diversion Channel:</i>	
At confluence with Fishing Creek.....	*803
Approximately 130 feet upstream of State Route 64.....	*809
At divergence from Fishing Creek.....	*824
<i>Little Fishing Creek:</i>	
At confluence with Fishing Creek.....	*810
At corporate limits.....	*841
<b>Maps available for inspection at the Township Building, R.D. 2, Mill Hill, Pennsylvania.</b>	
Send comments to The Honorable Kenneth Yearick, Secretary of the Township of Porter, Clinton County, R.D. 2, Mill Hill, Pennsylvania 17751.	
<b>Price (township), Monroe County</b>	
<i>Brodhead Creek:</i>	
At downstream corporate limits.....	*573
Approximately 2 miles upstream from downstream corporate limits.....	*640
At Alpine Mountain Ski Area access road.....	*706
Approximately 1.4 miles downstream from Snow Hill Road.....	*780
At upstream corporate limits.....	*843
<b>Maps available for inspection at the Municipal Building, Barrea Road, East Stroudsburg, Pennsylvania.</b>	
Send comments to The Honorable William Halterman, Chairman of the Township of Price Board of Supervisors, Monroe County, R.D. #4, East Stroudsburg, Pennsylvania 18301.	
<b>Rockland (township), Berks County</b>	
<i>Sacony Creek:</i>	
At downstream corporate limits.....	*470
Confluence of Little Sacony Creek.....	*552
Approximately 65 feet upstream of Smoketown Road.....	*582
<i>Little Sacony Creek:</i>	
At confluence with Sacony Creek.....	*652
Approximately 60 feet upstream of Smoketown Road.....	*683
<i>Bieber Creek:</i>	
Approximately 120 feet downstream of downstream corporate limits.....	*406
Approximately .62 mile upstream of downstream corporate limits.....	*482
Approximately 30 feet downstream of Pricetown Road.....	*653
At Stimml Road.....	*691
Approximately 330 feet upstream of Lyons Road.....	*781
<b>Maps available for inspection at the Rockland Township Building, Dysher Road, Rockland, Pennsylvania.</b>	
Send comments to The Honorable Jan Hoffman, Chairman of the Township of Rockland Board of Supervisors, Berks County, 22 Sheephill Road, Fleetwood, Pennsylvania 19522.	
<b>Salem (township), Wayne County</b>	
<i>West Branch Wallenpaupack Creek:</i>	
Approximately .29 mile downstream from confluence of Moss Hollow Creek.....	*1,290
At upstream side of S.R. 3004.....	*1,295
Approximately .8 mile upstream from S.R. 3004.....	*1,299
At confluence of Jones Creek.....	*1,331
<i>Jones Creek:</i>	
At confluence with West Branch Wallenpaupack Creek.....	*1,331
Approximately 15 mile upstream from S.R. 348.....	*1,359
<i>Ariel Creek:</i>	



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 10 mile downstream from 1st crossing of Five Mile Creek Road	*1,195
At L.R. 951	*1,262
<b>Moss Hollow Creek:</b>	
At confluence with West Branch Wallenpaupack Creek	*1,290
Approximately 1.6 miles upstream from confluence with West Branch	
Wallenpaupack Creek	*1,326
<b>Maps available for inspection at the Township Building, Salem, Pennsylvania.</b>	
Send comments to The Honorable Harry Moore, Chairman of the Township of Salem Board of Supervisors, Wayne County, R.D. 4, Lake Ariel, Pennsylvania 18436.	
<b>Shippensburg (township), Cumberland County</b>	
<b>Middle Spring Creek:</b>	
Approximately 2,200 feet downstream of Bard Road (T-306)	*608
At Hot Point Avenue (T-303)	*628
Approximately 625 feet downstream of State Route 696	*661
<b>Burd Run:</b>	
Approximately 1,625 feet downstream of CONRAIL	*621
Upstream side of U.S. Highway 11	*651
Approximately 400 feet upstream of State Route 174	*667
<b>Gum Run:</b>	
At CONRAIL	*670
At LR 28018	*676
<b>Maps available for inspection at the Shippensburg Township Building, Route 174, Shippensburg, Pennsylvania.</b>	
Send comments to The Honorable Howard W. Lyons, Chairman of the Township of Shippensburg Board of Supervisors, Cumberland County, Shippensburg Township Building, Route 174, P.O. Box 219, Shippensburg, Pennsylvania 17257	
<b>Shohola (township), Pike County</b>	
<b>Ballard Creek:</b>	
At confluence with Shohola Creek	*921
At Shohola Falls Road	*948
<b>Grassy Brook:</b>	
At confluence with Shohola Creek	*909
At approximately 1.6 miles upstream from State Route 434	*965
<b>Panther Creek:</b>	
At confluence with Delaware River	*595
At approximately .4 mile upstream from CONRAIL crossing	*658
At Panther Brook Road	*669
<b>Shohola Creek:</b>	
At approximately 1.8 miles above confluence with Delaware River	*687
At approximately .5 mile above Knealing Road	*728
At approximately 1.5 miles above Knealing Road	*787
At approximately 3 miles above Knealing Road	*852
At approximately 260 feet above confluence of Ballard Creek	*923
<b>Twin Lakes Creek:</b>	
At Twin Lakes Road	*1,277
At approximately .25 mile above Twin Lakes Road	*1,300
At access road crossing	*1,342
<b>Walker Lake Creek:</b>	
At Seneca Road	*1,173
At approximately .3 mile above Seneca Road	*1,214
<b>Delaware River:</b>	
Approximately 1.02 miles downstream from confluence of Shohola Creek	*578
At upstream corporate limits	*611
<b>Maps available for inspection at the Township Building, Shohola, Pennsylvania.</b>	

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to The Honorable Donald Knealing, Chairman of the Township of Shohola Board of Supervisors, Pike County, Shohola, Pennsylvania 18458.	
<b>Southampton (township), Cumberland County</b>	
<b>Middle Spring Creek:</b>	
At the downstream corporate limits	*547
Upstream side of T-312	*578
Approximately 1,750 feet above the confluence of Burd Run	*608
<b>Burd Run:</b>	
At the confluence with Middle Spring Creek	*605
Approximately 0.5 mile upstream of T-307	*621
Approximately .7 mile downstream of Interstate 81	*667
At the confluence of Long Pine Run	*697
<b>Long Pine Run:</b>	
Confluence with Burd Run	*697
Upstream side of CONRAIL	*718
Downstream side of Broad Street	*788
Approximately 400 feet upstream of L.R. 21048	*892
<b>Gum Run:</b>	
At the downstream corporate limits	*676
Approximately 0.5 mile downstream of Interstate 81	*691
Downstream side of Interstate 81	*711
<b>Maps available for inspection at the Southampton Township Building, Intersection of Airport and Hershey Road, Southampton, Pennsylvania.</b>	
Send comments to The Honorable Kenneth Goshorn, Chairman of the Township of Southampton Board of Supervisors, Cumberland County, R.D. 6, Box 64, Shippensburg, Pennsylvania 17257	
<b>South Newton (township), Cumberland County</b>	
<b>Yellow Breeches Creek:</b>	
Approximately 570 feet downstream of LR 21089	*713
Approximately 1,700 feet downstream of State Route 174	*726
Approximately 280 feet upstream of CONRAIL	*748
<b>Maps available for inspection at the Township Building, High Mountain Road, South Newton, Pennsylvania.</b>	
Send comments to The Honorable John K. Lautsbaugh, Jr., Chairman of the Township of South Newton Board of Supervisors, Cumberland County, Box 22, Walnut Bottom, Pennsylvania 17266.	
<b>Tobyhanna (township), Monroe County</b>	
<b>Tobyhanna Creek:</b>	
At State Route 940	*1,527
Approximately .9 mile upstream of State Route 940	*1,555
Upstream side of State Route 115	*1,567
Approximately 2.3 miles upstream of State Route 940	*1,580
Approximately .7 mile downstream of the confluence with Deep Run	*1,593
Downstream side of confluence of Deep Run	*1,603
Upstream side of dam	*1,640
<b>Upper Tunkhannock Creek:</b>	
Approximately 2 mile downstream of T-641	*1,673
Upstream side of T-625	*1,685
At State Route 423	*1,731
Upstream side of Miller Drive	*1,760
Approximately 4 mile downstream of Camp Minsi Road	*1,790
Approximately 325 feet upstream of Camp Minsi Road	*1,809
<b>Lehigh River:</b>	
Approximately .5 mile downstream of State Route 115	*1,453
Approximately 1.5 miles upstream of State Route 115	*1,490
Approximately 3.3 miles upstream of State Route 115	*1,507

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Maps available for inspection at the Tobyhanna Township Building, Pocono Pines, Pennsylvania.</b>	
Send comments to The Honorable Trudi Denlinger, Chairwoman of the Township of Tobyhanna Board of Supervisors, Monroe County, P.O. Box 880, Pocono Pines, Pennsylvania 18350.	
<b>Tulpehocken (township), Berks County</b>	
<b>Little Swatara Creek:</b>	
At downstream corporate limits	*454
At Township Route 492	*510
<b>Maps available for inspection at the Home of Jacob Tryon, Township Secretary/Treasurer, Godfrey Street, Rehrersburg, Pennsylvania.</b>	
Send comments to The Honorable Jacob Tryon, Secretary/Treasurer of the Township of Tulpehocken, Berks County, Godfrey Street, Rehrersburg, Pennsylvania 19550.	
<b>Tunkhannock (township), Wyoming County</b>	
<b>Susquehanna River:</b>	
Approximately 1,800 feet upstream of downstream corporate limits	*596
Approximately .5 mile downstream of State Routes 29 and 309	*609
At upstream corporate limits	*615
<b>Tunkhannock Creek:</b>	
Approximately 50 feet downstream of most downstream crossing of U.S. Route 6	*610
Approximately 2,000 feet downstream of confluence of Billings Mill Brook	*618
Upstream face of most upstream crossing of State Route 6	*629
Approximately 2.0 miles upstream of the most upstream crossing of State Route 6	*641
<b>Swale Brook:</b>	
At corporate limits	*649
Approximately 780 feet upstream of corporate limits	*665
<b>Maps available for inspection at the Township Building, Tunkhannock, Pennsylvania.</b>	
Send comments to The Honorable James Sands, Chairman of the Township of Tunkhannock Board of Supervisors, Wyoming County, R.D. 6, Tunkhannock, Pennsylvania 18657	
<b>West Carroll (township), Cambria County</b>	
<b>West Branch Susquehanna River:</b>	
Approximately 125 feet downstream of the downstream corporate limits	*1,538
Downstream side of T-602	*1,593
Upstream side of T-614	*1,665
At upstream side of first upstream crossing of LR 11045	*1,706
Approximately 600 feet upstream of the confluence of Bakerton Reservoir Tributary	*1,748
<b>Maps available for inspection at the Township Building, Elmora, Pennsylvania.</b>	
Send comments to The Honorable Larry Knee, Chairman of the Township of West Carroll Board of Supervisors, Cambria County, P.O. Box 234, Elmora, Pennsylvania 15737	
<b>TENNESSEE</b>	
<b>Henderson County (unincorporated areas)</b>	
<b>Beech River:</b>	
About 2,500 feet downstream of confluence of Owl Creek	*409
Owl Creek	*436
At confluence of Brazil Branch	
<b>Owl Creek:</b>	
At mouth	*411
Just downstream of Pope Drive	*451
<b>Town Branch:</b>	
At mouth	*415
About 1,750 feet upstream of downstream abandoned railroad grade	*424
<b>Tributary A:</b>	
At mouth	*433



PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 700 feet upstream of unnamed road.....	*436
<i>Oremile Branch:</i>	
At mouth.....	*435
Just downstream of State Highway 22.....	*474
<i>Brazil Branch:</i>	
At mouth.....	*436
Just downstream of county road.....	*451
<i>Wolf Creek:</i>	
About 500 feet upstream of mouth.....	*430
Just downstream of Life Road.....	*431
<b>Maps available for inspection at the County Executive's Office, County Courthouse, Lexington, Tennessee.</b>	
Send comments to The Honorable Harold Hopper, County Executive, Henderson County, County Courthouse, Lexington, Tennessee 38351	
<b>Lexington (city), Henderson County</b>	
<i>Beech River:</i>	
Just upstream of confluence of Owl Creek.....	*411
About 650 feet upstream of State Highway 20.....	*437
<i>Owl Creek:</i>	
Just upstream of mouth.....	*411
Just downstream of Pope Drive.....	*451
<i>Town Branch:</i>	
Just upstream of mouth.....	*415
About 1,700 feet upstream of State Highway 20.....	*444
About 1,200 feet downstream of Madison Avenue.....	*451
Just downstream of Madison Avenue.....	*454
<i>Wolf Creek:</i>	
At mouth.....	*430
Just downstream of Life Road.....	*431
<i>Tributary A:</i>	
About 700 feet upstream of unnamed road.....	*436
Just downstream of State Highway 22.....	*445
<i>Oremile Branch:</i>	
Just upstream of mouth.....	*435
Just downstream of abandoned railroad.....	*491
<i>Brazil Branch:</i>	
At mouth.....	*436
About 700 feet upstream of State Highway 20.....	*444
<b>Maps available for inspection at the Mayor's Office, City Hall, Lexington, Tennessee.</b>	
Send comments to The Honorable Jeffrey Davies, Mayor, City of Lexington, P.O. Box 87, Lexington, Tennessee 38351.	
<b>VIRGINIA</b>	
<b>Front Royal (town), Warren County</b>	
<i>South Fork Shenandoah River:</i>	
Downstream corporate limits.....	*499

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 130 feet upstream of upstream corporate limits.....	*507
<i>North Fork Shenandoah River:</i>	
At downstream corporate limits.....	*499
At upstream corporate limits.....	*499
<i>Happy Creek:</i>	
At downstream corporate limits.....	*499
At Eighth Street.....	*512
Approximately 50 feet upstream of Prospect Street.....	*574
Approximately 25 feet upstream of Criser Road.....	*622
Approximately 140 feet upstream of upstream corporate limits.....	*687
<i>Leach Run:</i>	
At confluence with Happy Creek.....	*499
At State Route 647.....	*538
Approximately 5,000 feet upstream of confluence of Tributary to Leach Run.....	*616
At upstream corporate limits.....	*720
<i>Tributary to Leach Run:</i>	
Downstream corporate limits.....	*540
At confluence of Upper Leach Run Tributary.....	*595
<b>Maps available for inspection at the Town Hall, 16 North Royal Avenue, Front Royal, Virginia.</b>	
Send comments to The Honorable Brackenridge H. Bentley, Front Royal Town Manager, Warren County, 16 North Royal Avenue, Front Royal, Virginia 22630.	
<b>WASHINGTON</b>	
<b>Ritzville (city), Adams County</b>	
<i>Paha Creek:</i>	
Approximately 730 feet downstream from center of Whittlesey Street Bridge.....	*1,787
Just upstream of Division Bridge.....	*1,796
Approximately 590 feet upstream from center of Harrison Street Bridge.....	*1,800
Approximately 1,930 feet upstream from center of Harrison Street Bridge (at Northeast corporate limits).....	*1,804
<b>Maps are available for review at City Hall, 209 N. Adams, Ritzville, Washington.</b>	
Send comments to Mayor Kirk D. Danekas, City Hall, 209 N. Adams, Ritzville, Washington 99169.	
<b>WISCONSIN</b>	
<b>Almena (village), Barron County</b>	
<i>Lightning Creek:</i>	
Just upstream of County Highway P.....	*1,162
Just downstream of Alma Street.....	*1,171

PROPOSED BASE (100-YEAR) FLOOD  
ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
<b>Maps available for inspection at the Village Hall, Almena, Wisconsin.</b>	
Send comments to The Honorable Ronald Dietrich, Village President, Village of Almena, Village Hall, Almena, Wisconsin 54905.	
<b>Colfax (village), Dunn County</b>	
<i>Red Cedar River:</i>	
About 0.5 mile downstream of Wheeler University Street.....	*918
About 1,500 feet upstream of Wheeler University Street.....	*921
<i>Eighteen Mile Creek:</i>	
Just downstream of Colfax Dam.....	*920
Just upstream of Colfax Dam.....	*927
About 1,900 feet upstream of Foot Bridge.....	*930
<b>Maps available for inspection at the Village Clerk's Office, Village Hall, 613 Main Street, Colfax, Wisconsin.</b>	
Send comments to The Honorable Julian Logsdell, Village President, Village of Colfax, Route 1, Box 345, Colfax, Wisconsin 54730.	
<b>Hawkins (village), Rusk County</b>	
<i>Main Creek:</i>	
About 2,450 feet downstream of the Soo Line Railroad.....	*1,347
Just upstream of Ellingson Avenue.....	*1,356
<b>Maps available for inspection at the Village Hall, Hawkins, Wisconsin.</b>	
Send comments to The Honorable Glenn Strand, Village President, Village of Hawkins, Village Hall, Box 188, Hawkins, Wisconsin 54530.	
<b>Oxford (village), Marquette County</b>	
<i>Neenah Creek:</i>	
About 2,500 feet downstream of Chauncey Street.....	*838
Just downstream of Oxford Dam.....	*839
<i>Neenah Lake: Along shoreline.....</i>	*853
<b>Maps available for inspection at the Village Hall, Oxford, Wisconsin.</b>	
Send comments to The Honorable Christian F. Meyer, Village President, Village of Oxford, Village Hall, Box 53, Oxford, Wisconsin 53952.	

The proposed modified base (100-year) flood elevations for selected locations are:

## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
California	Merced County (Unincorporated Areas)	Fahrens Creek.....	Approximately 4,720 feet downstream of confluence with Cottonwood Creek.....	None	*167
			Approximately 6,000 feet upstream of confluence with Cottonwood Creek.....	None	*173
			Approximately 50 feet downstream of Bellvue Avenue.....	None	*176
			Approximately 100 feet downstream of G Street.....	None	*185
			Approximately 1,000 feet west of Intersection of Cardella Road and G Street.....	None	#1
		Canal Creek (with Levee).....	Approximately 290 feet upstream of confluence with Black Rascal Creek.....	None	*146
			Approximately 800 feet downstream of Avenue One.....	None	*159
			Approximately 200 feet downstream of Avenue Two.....	None	*165
		Canal Creek (without Levee).....	Approximately 2,500 feet upstream of Santa Fe Drive.....	None	*173
			Approximately 190 feet upstream of Landram Avenue.....	None	*148
			Approximately 1,560 feet upstream of Elliot Avenue.....	None	*151
			Approximately 1,120 feet upstream of State Highway 99 northbound.....	None	*155



## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
		Canal Creek .....	Approximately 190 feet downstream of Avenue One.....	None	*160
			Approximately 3,500 feet South of Avenue One and approximately 1,500 feet west of Gurr Road.	None	#1
			Approximately 1,000 feet east of the intersection of Fox Road and Cardella Road.	None	#1
			Approximately 3,000 feet west of the Intersection of Gurr Road and Avenue Two.	None	#1
		Black Rascal Creek Reach 1 (with Levee).....	Approximately 75 feet upstream of State Highway 140.....	None	*137
			Approximately 3,880 feet upstream of State Highway 140.	None	*146
			Approximately 210 feet downstream of confluence with Canal Creek.	None	*150
		Black Rascal Creek Reach 1 (without Levee).....	Approximately 120 feet upstream of State Highway 140.	None	*140
			Approximately 720 feet downstream of confluence with Canal Creek.	None	*147
		Black Rascal Creek Reach 2 .....	Approximately 270 feet upstream of confluence with Bear Creek.	None	*163
			Approximately 1,220 feet upstream of confluence with Bear Creek.	None	*163
		Black Rascal Creek Reach 3 .....	Approximately 1,100 feet upstream of Santa Fe Drive.....	None	*165
		Trindade Drain.....	At the intersection of Lobo Road and Franklin Road .....	None	#1
		Bear Creek .....	Approximately 400 feet upstream of State Highway 140.	None	*150
			Approximately 940 feet downstream of confluence with Black Rascal Creek, Reach 2.	None	*161
			Approximately 300 feet downstream from State Highway 99.	None	*163
			Approximately 2,000 feet west of Crocker Dam.....	None	#1
			At the intersection of McKee Road and Stretch Road.....	None	#1
		Miles Creek (with Levee).....	Approximately 900 feet upstream of Santa Fe Avenue .....	None	*231
			At Childs Avenue.....	None	*234
			Approximately 1,750 feet upstream of Childs Avenue.....	None	*238
		Miles Creek (without Levee).....	Approximately 900 feet upstream of Santa Fe Avenue.....	None	*231
			Approximately 750 feet upstream of Childs Avenue.....	None	*236
			Approximately 1,750 feet upstream of Childs Avenue.....	None	*238
		Miles Creek.....	Approximately 4,000 feet east of Wheeler Road and approximately 500 feet north of State Highway 140.	None	#1
			At the intersection Stafford Avenue and Sutter Street.....	None	*230
		Livingston Canal.....	Between Avenue Two and Livingston Canal.....	None	*165

Maps are available for review at the Merced County Planning Department, 2222 M Street, Merced, California.

Send comments to the Honorable Albert Bardini, Chairman, Merced County Board of Supervisors, 2222 M Street, Merced, California 95430.

California .....	City of National City San Diego County.	Sweetwater River .....	1,500 downstream of intersection of Plaza Bonita Road.	*37	*37
			At intersection of Plaza Bonita Road with Bonita Road .....	None	*40
		La Paleta Creek.....	At Highland Avenue.....	None	#1
		San Diego Bay.....	At mouth of Sweetwater River.....	None	*6

Maps are available for review at City Hall, 1243 National City Boulevard, National City, California.

Send comments to Mayor George Waters, City Hall, 1243 National City Boulevard, National City, California 92053.

Florida.....	Daytona Beach (City), Volusia County.	Tomoka River.....	Just upstream of Eleventh Street.....	None	*15
			Just upstream of U.S. Route 92.....	None	*24
		B-19 Canal.....	Within community.....	None	*29
		Tributary No. 4.....	Within community.....	None	*29
		Tributary No. 6.....	Within community.....	None	*29
		Tributary No. 7.....	At mouth.....	None	*29
			About 1,650 feet upstream of Old DeLand Road.....	None	*30
		U.S. Route 92 Canal.....	At mouth.....	None	*24
			Just upstream of Eleventh Street.....	None	*30
		Eleventh Street Canal.....	At mouth.....	None	*15
			About 2,700 feet upstream of Williamson Boulevard .....	None	*26
		Eleventh Street Canal Tributary No. 1.....	Within community.....	None	*27
		Eleventh Street Canal Tributary No. 3.....	Within community.....	None	*27
		Thayer Channel.....	At mouth.....	None	*21
			Just downstream of Eleventh Street.....	None	*30
		Canal Between.....	At mouth.....	None	*17
			About 4,500 feet upstream of Interstate 95.....	None	*25
		Wally Hoffmeyer Canal.....	At mouth.....	None	*19
			About 700 feet upstream of Dunn Avenue .....	None	*28
		Bayless Canal.....	At mouth.....	None	*22
			About 1,100 feet upstream of Fentress Boulevard.....	None	*28
		Canal to Lake Lloyd.....	At mouth.....	None	*29
			About 1,100 feet upstream of mouth.....	None	*31
		Airport Speedway Ditch.....	Within community.....	None	*29
		Bellevue Canal.....	At mouth.....	None	*24
			Just downstream of Old DeLand Road.....	None	*29
		Lake Lloyd.....	Entire shoreline.....	None	*31
		Atlantic Ocean.....	About 500 feet northeast of the intersection of North Atlantic Avenue and Williams Avenue.	*12	*12
			About 300 feet northeast of the intersection of North Atlantic Avenue and Williams Avenue.	*9	*9



## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
		Intracoastal Waterway Halifax River	About 600 feet northwest of the intersection of Halifax Drive and Pelican Avenue. About 1,850 feet northeast of the intersection of Wilder Boulevard and South Ridgewood Avenue.	*6 9	*6 *9
Maps available for inspection at the City Hall, Daytona Beach, Florida. Send comments to The Honorable Howard Tipton, City Manager, City of Daytona Beach, Florida P.O. Box 551, Daytona Beach, Florida 32015-0551					
Florida.....	City of Edgewater, Volusia County.	Atlantic Ocean.....	About 700 feet west of the intersection of Park Avenue and Flagler Road. At intersection of Riverside Drive and Dixwood Avenue. Just northeast of the intersection of Evergreen Avenue and Riverside Drive.	None *8 *8	*6 *7 *7
Maps available for inspection at the City Hall, Edgewater, Florida. Send comments to The Honorable Earl Baugh, Mayor, City of Edgewater, P.O. Box 100, Edgewater, Florida 32032					
Florida.....	City of Fanning Springs, Gilchrist and Levy Counties.	Suwannee Creek.....	About 1.3 miles downstream of State Road 55..... About 2.0 miles upstream of State Road 55.....	*20 None	*20 *22
Maps available for inspection at the Mayor's Office, City Hall, Fanning Springs, Florida. Send comments to The Honorable Carol McQueen, Mayor, City of Fanning Springs, Route 1, box 848, Trenton, Florida 32693					
Florida.....	City of Ormond Beach, Volusia County.	Tomoka River.....	Just downstream of U.S. Route 1..... Just upstream of confluence of Shooting Range Canal.	*4 None	*5 *11
		Shooting Range Canal.....	At mouth..... Just upstream of Interstate 95..... Just upstream of Interstate 95..... about 2,175 feet upstream of Williamson Road..... Within community.....	None None None None None	*11 *15 *23 *28 *28
		Eleventh Street Canal Tributary No. 2.			
		Eleventh Street Canal Tributary No. 2A.	At mouth..... About 2,500 feet upstream of mouth.....	None None	*28 *29
Maps available for inspection at the City Hall, Ormond Beach, Florida. Send comments to the Honorable Bernard Murphy, City Manager, City of Ormond Beach, P.O. Box 277, Ormond Beach, Florida 32075.					
Florida.....	City of South Daytona, Volusia County.	Atlantic Ocean/Halifax River.....	At intersection of Ridge Road and Palmetto Road.....	*7	*9
Maps available for inspection at the City Hall, South Daytona, Florida. Send comments to the Honorable Joe Piggotte, Mayor, City of South Daytona, P.O. Box 4960, South Daytona, Florida 32021.					
Florida.....	City of St. Augustine, St. Johns County.	Atlantic Ocean.....	At intersection of Ponce De Leon Boulevard and San Carlos Avenue. About 1,200 feet east of intersection of San Marco Avenue and Old Mission Avenue.	None None	*9 *11
Maps available for inspection at the Planning Department, City Hall, 75 King Street, Room 136, St. Augustine, Florida. Send comments to the Honorable Michael A. Rourke, City Manager, City of St. Augustine, City Hall, 75 King Street, St. Augustine, Florida 32085-0210.					
Florida.....	Town of St. Augustine Beach, St. Johns County.	Atlantic Ocean.....	About 1,000 feet southeast of intersection of 16th Street and State Route A1A. About 1,000 feet east of the intersection of Ocean Avenue and F Street.	None None	*9 *14
Maps available for inspection at the City Manager's Office, City Hall, 2110 A1A South, St. Augustine Beach, Florida. Send comments to The Honorable Walter Bockmiller, City Manager, Town of St. Augustine Beach, City Hall, 2110 A1A South, St. Augustine Beach, Florida 32084.					
Florida.....	Town of Worthington Springs, Union County.	Santa Fe River.....	About 1,600 feet downstream of State Road 121..... About 900 feet upstream of State Road 121.....	None None	*72 *73



## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Mayor's home, Worthington Springs, Florida. Send comments to the Honorable Henry P. Elixon, Mayor, Town of Worthington Springs, P.O. Box 150, Worthington Springs, Florida 32697.					
Illinois.....	Village of Elkhart, Logan County.....	Elkhart Slough.....	About 800 feet downstream of Interstate 55..... About 1.0 mile upstream of Interstate 55.....	None None	*586 *590
Maps available for inspection at the Logan County Planning Office, County Highway Department Building, 529 South McLean, Lincoln, Illinois. Send comments to the Honorable Hugh Garvey, Village President, Village of Elkhart, Village Hall, Elkhart, Illinois 62834-9999.					
Illinois.....	City of Lincoln, Logan County.....	Salt Creek..... Brainard Branch.....  Salt Springs Branch.....	Within community..... Just upstream of State Route 121..... About 0.47 mile upstream of U.S. Route 66 (upstream crossing) Within Community.....	None *564 None None	*558 *565 *577 *569
Maps available for inspection at the Lincoln County Planning Office, County Highway Department Building, 529 South McLean, Lincoln, Illinois. Send comments to The Honorable Peter Andrews, Mayor, City Hall, 700 Broadway, Lincoln, Illinois 62656-2838.					
Kansas.....	City of Abilene, Dickinson County.....	Mud Creek.....  Mud Creek..... Tributary No. 1..... Smoky Hill River.....	About 600 feet downstream of Atchison, Topeka and Santa Fe Railway. About 1700 feet upstream of North 7th Street..... At mouth..... Just upstream of Washington Street..... About 0.4 mile downstream of State Highway 15 (Buckeye Avenue). About 1.7 miles upstream of State Highway 15 (Buckeye Avenue)	*1,151  *1,160 *1,160 *1,168 *1,145 *1,149	*1,152  *1,159 *1,159 *1,167 *1,146 *1,151
Maps available for inspection at the Office of the City Inspector, City Building, Abilene, Kansas. Send comments to The Honorable Earl F. Mills, Mayor, City of Abilene, City Building, Abilene, Kansas 67410.					
Kansas.....	City of Chapman, Dickinson County.....	Smoky Hill River.....  Chapman Creek.....	About 1600 feet downstream of State Highway 206 (Marshall Street) About 0.40 mile upstream of State Highway 206 (Marshall Street). Just downstream of Union Pacific Railroad..... About 2 miles upstream of Union Pacific Railroad.....	*1,112  *1,112 *1,115	*1,111  *1,111 *1,115
Maps available for inspection at the City Hall, Chapman, Kansas. Send comments to The Honorable Harold Corbett, Mayor, City of Chapman, City Hall, 402 Marshall, Chapman, Kansas 67431.					
Kansas.....	City of Great Bend, Barton County.....	Dry Walnut Creet.....	About 1,300 feet west of the intersection of Park Avenue and Kiowa Road About 2400 feet west of the intersection of Aspen Drive and Cherry Lane.	*1,839 *1,868	*1,842 *1,865
Maps available for inspection at the City Hall, Great Bend, Kansas. Send comments to The Honorable Jim Thurman, Mayor, City of Great Bend, City Hall, P.O. Box 1168, Great Bend, Kansas 67530.					
Kansas.....	City of Solomon, Dickinson County.....	Solomon River Tributary.....  Smoky Hill River.....  Solomon River.....	Just downstream of Main Street.....  About 500 feet upstream of Seventh Street..... About 500 feet downstream of County Highway 186..... About 1.0 mile upstream of County Highway 186..... About 1.3 miles downstream of confluence of Solomon River About 700 feet upstream of confluence of Solomon River Tributary.	*1,171  *1,177 *1,167 *1,171 1,171 *1,171	*1,171  *1,178 *1,169 *1,171 *1,170 *1,171
Maps available for inspection at the City Office Building, Solomon, Kansas. Send comments to The Honorable D. Lynn Rhodes, Mayor, City of Solomon, City Office Building, P.O. Box 273, Solomon, Kansas 67480.					
Massachusetts.....	Holbrook, Town Norfolk County.....	Cochato River/Lake Trout Brook.....  Tributary C2B.....  Tributary R2.....  Tributary R3.....  Tributary R4..... Beaver Brook.....	Approximately 900 feet upstream of confluence of Tributary R3. Downstream side of Spring Street..... Approximately 180 feet downstream of Massachusetts Bay Transportation Authority Railroad Culvert 32. Approximately 250 feet upstream of Woodlawn Road (extended). Downstream side of South Franklin Street..... Approximately 100 feet upstream of Dean Street..... Approximately 70 feet upstream of South Franklin Street. Downstream side of Spring Street..... Downstream corporate limits..... Approximately 0.4 mile upstream of Plymouth Street..... Approximately 1,000 feet upstream of Weymouth Street.	*137 *139 *130 None *150 *168 *139 *155 *161 *180 *202	*136 *138 *131 *139 *156 *169 *154 *148 *162 *181 *207
Maps available for inspection at the Office of the Planning Board, Holbrook, Massachusetts. Send comments to The Honorable Robert Andrea, Chairman of the Town of Holbrook Board of Selectmen, Norfolk County, Town Offices, Holbrook, Massachusetts 02343.					
Minnesota.....	Austin, City, Mower County.....	Cedar River.....	Downstream corporate limits..... Upstream side of 4th Street S.E..... Approximately 1,100 feet upstream of Interstate Route 90. Upstream corporate limits.....	*1,190 *1,194 *1,203 None	*1,188 *1,192 *1,200 *1,204



## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
		Dobbins Creek.....	Upstream side of Interstate Route 90 Bridge (west-bound).	*1,200	*1,203
		North Branch Dobbins Creek.....	At confluence with South Branch Dobbins Creek.....	*1,202	*1,204
		South Branch Dobbins Creek.....	Upstream corporate limits.....	*1,202	*1,204
		Wolf Creek.....	At confluence with Dobbins Creek.....	*1,203	*1,205
			Approximately 1,500 feet upstream of County road.....	*1,202	*1,204
		Turtle Creek.....	Downstream side of the Chicago, Milwaukee, St. Paul and Pacific Railroad and the downstream corporate limits.	*1,209	*1,211
			Upstream corporate limits.....	None	*1,204
			Downstream corporate limits.....	None	*1,207
			Upstream corporate limits.....	*1,190	*1,189
				*1,193	*1,193

Maps available for inspection at the City Hall, 500 4th Avenue Northeast, Austin, Minnesota.

Send comments to The Honorable John O'Rourke, Mayor of the City of Austin, Mower County, City Hall, 500 4th Avenue Northeast, Austin, Minnesota 55912.

Minnesota.....	Stearns County Unincorporated Areas.	Sauk River.....	At downstream County Boundary.....	None	*1,092
		Clearwater River.....	Approximately 2 miles upstream of State Route 22.....	None	*1,096
			At confluence with Mississippi River.....	None	*948
		North Fork Crow River (Mud Lake).....	Upstream side of County Route 144.....	None	*986
			Upstream side of State Route 55.....	None	*1,128
		North Fork Crow River.....	Downstream side of Soo Line Railroad.....	None	*1,128
			At State Route 23.....	None	*1,143
			At upstream County Boundary.....	None	*1,163

Maps available for inspection at the County Courthouse, St. Cloud, Minnesota.

Send comments to The Honorable Meinrad Torborg, Chairman of the Stearns County Board of Supervisors, County Courthouse, St. Cloud, Minnesota 56301.

Minnesota.....	Wright County Unincorporated Areas.	Mississippi River.....	Approximately 25.4 miles above confluence of Main Stem Crow River.	None	*936
			Approximately 29.6 miles above confluence of Main Stem Crow River.	None	*942
		Main Stem Crow River.....	At upstream County boundary.....	None	*947
			At confluence with Mississippi River.....	*857	*858
			Upstream side of State Route 116.....	*876	*873
			At upstream corporate limits of City of Hanover.....	*903	*901
			Downstream corporate limits of City of Rockford.....	*912	*910
		South Fork Crow River.....	At confluence of North and South Forks Crow River.....	*918	*914
			At confluence with Main Stem Crow River.....	*918	*914
			Upstream side of Township Road 276.....	*931	*926
		Clearwater River.....	At upstream County boundary.....	*934	*931
			At downstream County boundary.....	None	*959
			Upstream side of County Route 40.....	None	*978
			Upstream side of County Route 128.....	None	*996
			Upstream side of State Route 55.....	None	*1,009
			Confluence with Scott Lake.....	None	*1,030

Maps available for inspection at the Wright County Courthouse, Buffalo, Minnesota.

Send comments to The Honorable Paul McAlpine, Chairman of the Wright County Board of Supervisors, Box 197, Route 1, Maple Lake, Minnesota 55358.

Mississippi.....	Town of Georgetown, Copiah County.	Pearl River.....	About 0.9 mile downstream of State Highway 28.....	None	*229
			Just upstream of State Highway 28.....	None	*231

Maps available for inspection at the City Hall, Georgetown, Mississippi.

Send comments to The Honorable Robert W. Windom, Mayor, Town of Georgetown, P.O. Box 138, Georgetown, Mississippi 39078.

Missouri.....	City of Anniston, Mississippi County.	Shallow flooding (overflow from Birds Point—New Madrid Levee Ditch).	Within community.....	None	*311
		Shallow flooding (overflow from Wolf Hole Lateral No. 2).	About 600 feet west of intersection of Russell Street & Southern Pacific Railroad.	None	*312
			About 400 feet northwest of intersection of State Highway 75 and Fourth Street.	None	*313

Maps available for inspection at the City Hall, Anniston, Missouri. Send comments to The Honorable Dessie Gross, Mayor, City of Anniston, P.O. Box 246, Anniston, Missouri 63820.

Missouri.....	City of Charleston, Mississippi County.	Shallow flooding (overflow from Wolf Hole Lateral No. 2).	Within community.....	None	*320
		Shallow flooding (overflow from Stevenson Bayou).	About 1000 feet southwest of intersection of U.S. Highway 60 and County Highway 323.	None	*316
			About 2000 feet west and 600 feet north of intersection of U.S. Highway 60 and County Highway 323.	None	*317

Maps available for inspection at the City Hall, Charleston, Missouri.

Send comments to The Honorable Larry R. Smith, Mayor, City of Charleston, City Hall, P.O. Box 216, Charleston, Missouri 63834.

Missouri.....	City of East Prairie, Mississippi County.	Shallow Flooding (overflow from St. James Ditch).	Within community.....	None	*309
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Maps available for inspection at the City Administration Building, 219 North Washington, East Prairie, Missouri.

Send comments to The Honorable Kevin P. Mainord, Mayor, City of East Prairie, 219 North Washington, East Prairie, Missouri 63845.

Missouri.....	Village of Wilson City, Mississippi County.	Shallow Flooding (overflow from Birds Point—New Madrid Levee Ditch).	Within community.....	None	*317
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## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified

Maps available for inspection at the Community Building, Wilson City, Missouri.

Send comments to The Honorable Amos Mays, Member of the Board of Trustees, Village of Wilson City, P.O. Box 73, Wyatt, Missouri 63882.

Missouri	City of Wyatt, Mississippi County...	Shallow Flooding (overflow from Birds Point-New Madrid Levee Ditch).	Within community.....	None	*317
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Maps available for inspection at the City Hall, Wyatt, Missouri.

Send comments to The Honorable Donald Williams, Mayor, City of Wyatt, P.O. Box 427, Wyatt Missouri 63882.

Montana	City of Missoula Missoula County...	Clark Fork River.....	Approximately 1,800 feet downstream of Reserve Street.	*3,148	*3,150
		Rattlesnake Creek.....	North and south of U.S. Highway 90 and east of Rattlesnake Creek.	#1	*3,204
		Pattee Creek.....	Approximately 1,900 feet downstream from Lolo Street.	*3,270	*3,268
			At intersection with Pattee Canyon Road and Hill Crest.	None	#1
			Approximately 600 feet west of intersection between Crestline and Pine Ridge.	None	#1
			At intersection of Benton and Bancroft Streets .....	#2	#1
			Approximately 300 feet southeast of the intersection between Cohossett and Saranac.	#2	#1
			At the intersection between 39th Street and Normans Lane.	#2	#1
			Approximately 300 feet south of McDonald and approximately 300 feet west of Russell Street.	#3	#2
			Approximately 1,100 feet south of Pattee Creek Road and approximately 300 feet east of Stephens.	#2	#3
			Approximately 400 feet south of 39th Street and approximately 250 feet east of Reserve Street.	#1	#3

Maps are available for review at the City of Missoula Office of Community Development, 201 West Spruce Street, Missoula, Montana.

Send comments to Mayor Bob Lovegrove, 201 West Spruce Street, Missoula, Montana 59802.

Montana	Missoula County Unincorporated Areas	Clark Fork.....	Approximately 600 feet downstream of confluence with Petty Creek.	None	*2,961
			Approximately 320 feet upstream of confluence with Ninemile Creek.	None	*2,985
			Approximately 700 feet upstream of Burlington Northern Railroad.	None	*3,002
			Approximately 4,000 feet downstream of confluence with Albert Creek.	None	*3,038
			Approximately 1,000 feet downstream of confluence with Rock Creek.	None	*3,041
			Approximately 200 feet upstream of confluence with Rock Creek.	*3,042	*3,042
		Grant Creek.....	Approximately 30 feet downstream of eastbound exit ramp I-90.	None	*3,272
			Approximately 50 feet upstream of private drive bridge...	None	*3,330
			Approximately 50 feet downstream of Old Grant Creek Road Bridge.	None	*3,540
			Located exactly at Old Grant Creek Road Bridge upstream of First Old Grant Creek Road Bridge.	None	*3,600
			Located approximately 100 feet upstream of Road to Snowbowl Bridge.	None	*3,782
		Miller Creek.....	Approximately 1,925 feet upstream of confluence with Bitterroot River.	None	*3,140
			Approximately 50 feet downstream of unnamed bridge...	None	*3,368
			Approximately 100 feet downstream of confluence with Cahoot Canyon Creek.	None	*3,400
			Approximately 3,630 feet upstream of confluence with Cahoot Canyon Creek.	None	*3,472
			Approximately 5,500 feet downstream of confluence with Bear Run Creek.	None	*3,700
		Pattee Creek.....	At the intersection of Cohossett and Saranac.....	#2	#1
			At the intersection of Country Club Lane and Garland Drive.	None	#1
			At the intersection of 38th Street and Buckley.....	#2	#1
			Approximately 500 feet northwest of the intersection of Briggs Street and Orchard.	None	#1
			Approximately 300 feet southwest of the intersection of 40th Street and Larkspur.	#2	#1
			Approximately 200 feet east of the intersection of South Higgins Avenue and Fairview.	None	#1

Maps are available for review at the City of Missoula Office of Community Development, 201 W. Spruce Street, Missoula, Montana.

Send comments to The Honorable Janet Stevens, Chairman, Missoula County Board of Commissioners, County Courthouse, Missoula, Montana 59802.

North Carolina	Unincorporated Areas of Mitchell County.	North Toe River.....	About 2.2 miles downstream of U.S. Route 19E.....	None	*2,485
		Beaver Creek.....	Just downstream of altapass Highway.....	None	*1,562
			About 1,200 feet upstream of Beaver Creek Road (upstream bridge).	None	*2,663
		Grassy Creek.....	About 1,340 feet upstream of Beaver Creek Road (upstream bridge).	None	*2,667
			Just downstream of Swiss Pine Lake Dam.....	None	*2,532
		East Fork Grassy Creek.....	At confluence of East Fork Grassy Creek.....	None	*2,617
			At confluence with Grassy Creek.....	None	*2,617



## PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			About 1,690 feet upstream of confluence with Grassy Creek.	None	*2,627
Maps available for inspection at the Mitchell County Emergency Management Office, County Administrative Building, Bakersville, North Carolina. Send comments to The Honorable Keith Whitson, County Manager, Mitchell County, County Administrative Building, Bakersville, North Carolina 28705.					
North Carolina	Town of Pollockville, Jones County.	Trent River	Within community	None	*9
Maps available for inspection at the Town Hall, Pollockville, North Carolina. Send comments to The Honorable James V. Bender, Jr., Mayor, Town of Pollockville, Box 130, Pollockville, North Carolina 28573.					
North Carolina	Town of West Jefferson, Ashe County.	Beaver Creek	Just upstream of U.S. Route 221	None	*2,976
			Just downstream of SR 1147	None	*2,983
Maps available for inspection at the City Hall, West Jefferson, North Carolina. Send comments to The Honorable Eddie Taylor, City Manager, Town of West Jefferson, City Hall P.O. Box 490, West Jefferson, North Carolina 28640.					
Oregon	City of Bend, Deschutes County	Deschutes River	At upstream of Pacific Power and Light Dam	*3,594	*3,594
			100 feet above Iceboom	*3,606	*3,607
			4,700 feet below upstream Corp. limits	*3,608	*3,610
			3,200 feet below upstream Corp. limits	*3,617	*3,617
Maps are available for review at City Hall, Planning Department, 710 Northwest Wall, Bend, Oregon. Send comments to Mayor Bruce Devlin, P.O. Box 431, Bend, Oregon 97709.					
Oregon	City of Columbia City, Columbia County	Columbia River	At downstream corporate limits	None	*22
			At upstream corporate limits, approximately 1,100 feet above "L" Street	None	*22
Maps are available for review at City Hall, Columbia City, Oregon. Send comments to Mayor Cheryl Young, City Hall, P.O. Box 189, Columbia City, Oregon 97018.					
Oregon	City of St. Helens, Columbia County	Columbia River	At upstream corporate limits	None	*23
			At downstream corporate limits confluence of Multnomah Channel	*22	*23
		Milton Creek	At upstream corporate limits, 1,840 feet upstream of Pittsburg Road	None	*150
			At intersection with Columbia River Highway (State Highway 30)	*100	*100
			At centerline of Old Portland Road	*67	*67
			At confluence with Columbia River	None	*23
Maps are available for review at City Hall, St. Helens, Oregon. Send comments to Mayor Geneva M. Shadley, City Hall, P.O. Box 278, St. Helens, Oregon 97051.					
Wisconsin	Village of Cassville, Grant County	Mississippi River	About 2.7 miles downstream of confluence of Furnace Creek	*620	*618
			About 1.0 mile upstream of confluence of Furnace Creek	*622	*620
Maps available for inspection at the Village Hall, Cassville, Wisconsin. Send comments to The Honorable Charles H. Dietrich, Village President, Village of Cassville, Village Hall, 100 West Amelia, Cassville, Wisconsin 53806.					

## PROPOSED MODIFIED BASE (100-YEAR) Flood Elevations

Source of flooding and location	#Depth in feet above ground *Elevation in feet (NGVD)	
	Existing	Modified
<b>OREGON</b>		
<b>Columbia County (Unincorporated Areas)</b>		
<i>Clatskanie River:</i>		
At confluence with Beaver Slough	None	*12
At upstream of Olson Road	None	*18
<i>Coyers Creek:</i>		
At Kelly Road	None	*22
Approximately 750 feet above confluence of Roaring Creek	None	*74
<i>Columbia River:</i>		
At Clatsop—Columbia County boundary	None	*11
At Crims Island	None	*14
At confluence of Goble Creek	None	*19
At confluence of Tide Creek	None	*20
At confluence of Multnomah Channel	None	*23

## PROPOSED MODIFIED BASE (100-YEAR) Flood Elevations—Continued

Source of flooding and location	#Depth in feet above ground *Elevation in feet (NGVD)	
	Existing	Modified
At Columbia—Multnomah County boundary	None	*26
<i>McNulty Creek:</i>		
At confluence with Columbia River	None	*24
Upstream of Columbia River Highway	None	*78
Downstream of Ross Road	None	*100
<i>Milton Creek:</i>		
Approximately 200 feet above Pittsburg Road and City of St. Helens corporate limit	None	*137
At intersection of Pittsburg Road, approximately 300 feet below intersection of Robinson and Pittsburg Road	None	*203
At Pittsburg Road crossing of T 4/5 North	None	*221

## PROPOSED MODIFIED BASE (100-YEAR) Flood Elevations—Continued

Source of flooding and location	#Depth in feet above ground *Elevation in feet (NGVD)	
	Existing	Modified
<i>Nehalem River:</i>		
Approximately 150 feet below intersection of Alder Street and Pebble Creek Road	None	*608
Just downstream of sewage disposal ponds	None	*613
Approximately 3,100 feet above confluence of Rock Creek	None	*618
<i>Scappoose Creek:</i>		
At intersection of West Lane Road	None	*24
Just below State Highway 30	None	*43
At intersection of Branch Road	None	*76
At upstream of Raymond Creek Road	None	*88
<i>North Scappoose Creek:</i>		
At confluence with Scappoose Creek	None	*37
At upstream of State Highway 30	None	*48



# PROPOSED MODIFIED BASE (100-YEAR) Flood Elevations—Continued

Source of flooding and location	# Depth in feet above ground *Elevation in feet (NGVD)	
	Existing	Modified
Approximately 150 feet below confluence with North Scappoose Creek overflow.....	None	*54
Approximately 250 feet above Apple Valley Road.....	None	*75
North Scappoose Creek Overflow: Approximately 100 feet below confluence with North Scappoose Creek.....	None	*54
At confluence with Scappoose Creek.....	None	*43
Maps are available for review at Columbia County Courthouse, First Street, St. Helens, Oregon.		
Send comments to Mr. Michael J. Sykes, Chairman, Columbia County Board of Commissioners, Columbia County Courthouse, First Street, St. Helens, Oregon 97051.		

## Prescott (City), Columbia County

Columbia River:		
At Riverview Avenue.....	None	*18
Maps are available for review at Prescott City Hall, 72742 Blakely Street, Rainier, Oregon.		
Send comments to Mayor Noma Carter Winchell, Prescott City Hall, 72742 Blakely Street, Rainier, Oregon 97048.		

## Rainier (City), Columbia County

Columbia River:		
At downstream corporate limit, approximately 3,300 feet below Longview Bridge.....	None	*16
At upstream corporate limit.....	None	*17
Maps are available for review at City Hall, Rainier, Oregon.		

# PROPOSED MODIFIED BASE (100-YEAR) Flood Elevations—Continued

Source of flooding and location	# Depth in feet above ground *Elevation in feet (NGVD)	
	Existing	Modified
Send comments to Mayor Elizabeth Vilhuer, City Hall, P.O. Box A, Rainier, Oregon 97048.		
<b>Scappoose (City), Columbia County</b>		
Scappoose Creek:		
At downstream corporate limits, just above Columbia River Highway.....	None	*43
Upstream of Scappoose Vernonia Road.....	None	*46
At centerline of J. P. West Road.....	None	*48
At centerline of E. M. Watts Road.....	None	*53
At upstream corporate limit, centerline of Dutch Canyon Road.....	None	*62
Maps are available for review at City Hall, Scappoose, Oregon.		
Send comments to Mayor Elizabeth Huser, City Hall, P.O. Box P, Scappoose, Oregon 97056.		

## Vernonia (City), Columbia County

Rock Creek:		
At upstream corporate limit, T 4/5 north line.....	None	*619
At Bridge Street (State Highway 47).....	None	*615
At confluence with Nehalem River.....	None	*615
Nehalem River:		
At downstream corporate limit, approximately 1,000 feet above confluence of Knickerson Creek..	None	*600
At intersection of Elm Street and Mist Drive.....	None	*606
At eastern end of Vernonia Lake.....	None	*608
At southern corporate limit.....	None	*615

# PROPOSED MODIFIED BASE (100-YEAR) Flood Elevations—Continued

Source of flooding and location	# Depth in feet above ground *Elevation in feet (NGVD)	
	Existing	Modified
Maps are available for review at City Hall, 919 Bridge Street, Vernonia, Oregon.		
Send comments to Mayor Wallace Vaughn, City Hall, 919 Bridge Street, Vernonia, Oregon 97064.		
<b>WYOMING</b>		
<b>Baggs (Town), Carbon County</b>		
Little Snake River:		
Approximately 1,150 feet downstream of State Highway 789.....	None	*6,243
Approximately 2,200 feet upstream of State Highway 789.....	None	*6,248
Ledford Slough:		
Approximately 330 feet downstream of County Road.....	None	*6,240
Approximately 100 feet downstream of State Highway 789.....	None	*6,246
Approximately 3,000 feet upstream of State Highway 789.....	None	*6,252
Maps are available for review at the Town Hall, 129 Penland Street, Baggs, Wyoming.		
Send comments to Mayor Ransome Hackett, Town Hall, 129 Penland Street, Baggs, Wyoming 82321.		

Issued: December 1, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-28071 Filed 12-9-87; 8:45 am]

BILLING CODE 6718-03-M



# Notices

Federal Register

Vol. 52, No. 237

Thursday, December 10, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Intermountain Region; Proposed Fee Schedule for Electronic Communication Sites

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; extension of the public comment period.

**SUMMARY:** The Regional Forester for the Intermountain Region is extending the comment period on the proposed fee schedule for electronic communication sites. The proposed fee schedule was published Thursday, October 15, 1987, on page 38250 of the Federal Register, Volume 52, No. 199. Comments on the proposal were due December 14, 1987. In response to requests from various individuals and organizations, the Regional Forester is extending the comment period for 60 days.

**DATE:** Comments on the proposed fee schedule must be received in writing on or before February 14, 1988.

**ADDRESS:** Mail comments on the proposal to J.S. Tixier, Regional Forester, Intermountain Region, 324 25th Street, Ogden, UT 84401.

**FOR FURTHER INFORMATION CONTACT:** Frank Elder (801) 625-5150 or Lynn Bidlack (801) 625-5141, Recreation and Lands Staff.

T. A. Roederer,

Deputy Regional Forester, Resources.

Date: December 7, 1987.

[FR Doc. 87-28418 Filed 12-9-87; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-704]

#### Postponement of Preliminary Antidumping Duty Determinations; Brass Sheet and Strip From the Netherlands (A-421-701) and Japan

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public that we have received requests from the petitioners in these investigations to postpone the preliminary determinations as permitted by section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Based on these requests, we are postponing our preliminary determinations of whether sales of brass sheet and strip from the Netherlands and Japan have occurred at less than fair value until not later than January 26, 1988.

**EFFECTIVE DATE:** December 10, 1987.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann or Mary Clapp Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-3965 or (202) 377-1769.

**SUPPLEMENTARY INFORMATION:** On August 14, 1986 (52 FR 30416, the Netherlands; and 52 FR 30412, Japan), we published the notices of initiation of antidumping duty investigations to determine whether brass sheet and strip from the Netherlands and Japan are being, or are likely to be, sold in the United States at less than fair value. The notices stated that we would issue our preliminary determinations by December 28, 1987.

As detailed in the notices, the petition alleged that imports of brass sheet and strip from the Netherlands and Japan are being, or are likely to be sold in the United States at less than fair value.

On December 1, 1987, counsel for petitioners, American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Copper, Ltd.,

The Miller Company, Olin Corporation, Revere Copper Products, Inc., The International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC), requested that the Department extend the period for the preliminary determinations until not later than 190 days after the date of receipt of the petition in accordance with section 773(c)(1)(A) of the Act. Accordingly, the period for determinations in these cases is hereby extended. We intend to issue preliminary determinations not later than January 26, 1988.

This notice is published pursuant to section 733(c)(2) of the Act.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

December 4, 1987.

[FR Doc. 87-28389 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-703]

#### Postponement of Final Antidumping Duty Determination; Certain Internal-Combustion, Industrial Forklift Trucks From Japan

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On November 24, 27, and 30, and December 1, 1987, we received requests from four respondents in the antidumping duty investigation of certain internal-combustion, industrial forklift trucks (forklifts) from Japan that the final determination be postponed, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act).

Pursuant to these requests, we are postponing our final determination of whether sales of forklifts from Japan have been made at less than fair value until not later than April 7, 1988. We are also postponing our public hearing from January 11, 1988, until March 2, 1988.

**EFFECTIVE DATE:** December 10, 1987.



**FOR FURTHER INFORMATION CONTACT:**

Rick Herring or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0187 or 377-0161.

**SUPPLEMENTARY INFORMATION:**

On November 18, 1987, we issued an affirmative preliminary determination of sales at less than fair value with respect to forklifts from Japan (52 FR 45003, November 24, 1987). That notice stated that if the investigation proceeded normally, we would make our final determination by February 1, 1988.

On November 24, 27, and 30, and December 1, 1987, Komatsu Forklift Co., Ltd., (Komatsu), Toyota Motor Corp. (Toyota), Nissan Motor Co., Ltd., (Nissan), and Sumitomo-Yale (Sumitomo), respectively, requested a postponement of the final determination until not later than 135 days after the date of publication of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act. Komatsu, Toyota, Nissan, and Sumitomo account for a significant proportion of exports of forklifts from Japan to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation request a postponement of the final determination following an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are postponing our final determination until not later than April 7, 1988.

**Public Comment**

The notice of preliminary determination also stated that, in accordance with 19 CFR 353.47, if requested, we would hold a public hearing to afford interested parties an opportunity to comment on the preliminary determination on January 11, 1988.

We are postponing this hearing until 10:00 a.m. on March 2, 1988, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Prehearing briefs in at least ten copies must be submitted to the Acting Assistant Secretary for Import Administration by February 22, 1988. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is

held, within seven days after the hearing transcript is available.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

*Acting Assistant Secretary for Import Administration.*

December 4, 1987.

[FR Doc. 87-28390 Filed 12-9-87; 8:45 am]

BILLING CODE 35100-DS-M

**[A-475-031]****Final Results of Antidumping Duty Administrative Review; Large Power Transformers From Italy**

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On June 24, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from Italy. At the request of the petitioner we held a public hearing on August 5, 1987. Based on our analysis of the issues raised at the hearing, the final results of review are changed from those presented in the preliminary results with respect to one company.

**EFFECTIVE DATE:** December 10, 1987.

**FOR FURTHER INFORMATION CONTACT:**

Laurie A. Lucksinger or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-5255/2923.

**SUPPLEMENTARY INFORMATION:****Background**

On June 24, 1987, the Department of Commerce ("the Department") published in the *Federal Register* (52 FR 23708) the preliminary results of antidumping duty administrative review of the antidumping finding on large power transformers from Italy (37 FR 11772, June 14, 1972). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of Review**

Imports covered by the review are shipments of large power transformers ("transformers"); that is, all types of transformers rated 10,000 kVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors,

autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination rectifier-transformer units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Transformers covered by this finding are currently classifiable under items 682.0755, 682.0765, and 682.0775 of the Tariff Schedules of the United States Annotated. These products are currently classifiable under Harmonized System item numbers 8504.22.00, 8504.23.00, 8504.34.00, 8504.40.00, 8504.50.00, and 8505.50.00.

The review covers three firms and various periods: Industrie Elettliche di Legnano ("I.E.L.")—May 1, 1974 through May 31, 1986; Ansaldo Componenti ("Ansaldo")—June 1, 1983 through May 31, 1985; and Officine Elettromeccaniche Lombarde ("O.E.L.") June 1, 1985 through May 31, 1986.

**Analysis of Comments Received**

We invited interested parties to comment on the preliminary results. At the request of the petitioner, Westinghouse Electric Corporation, we held a public hearing on August 5, 1987.

**Comments by Westinghouse Electric Corporation****Sales by I.E.L.**

*Comment 1:* Petitioner requests that the Department confirm that the cash deposit rate for I.E.L. applies to Nuova Industrie Elettliche di Legnano ("N.I.E.L.") and any new exporter to the United States.

*Department's Position:* Because N.I.E.L. is the successor company to I.E.L., we will instruct the U.S. Customs Service to apply the cash deposit rate of I.E.L. to any future entries of merchandise produced by N.I.E.L. and exported to the U.S. See our response to Comment 30. We disagree with petitioner that the I.E.L. cash deposit rate should be applied to any new exporter. This review covers three manufacturers with varying review periods. It is the Department's policy to determine the new exporter cash deposit based on the highest rate assigned to a responsive firm with shipments during the most recent period of review. In the most recent period covered by this notice, only O.E.L. had sales to the U.S. and the cash deposit for new exporters will be the rate we determine for O.E.L.



*Sale by Ansaldo*

**Comment 2:** Petitioner contends that the Department misapplied the efficiency calculation which adjusts for the differences between losses of the units sold by Ansaldo to the U.S. and Italy. In step 8 of the calculation, the Department adjusted the load losses of the U.S. unit (U.S. kVA) and Italian unit (H.M. kVA) with the calculation (U.S. kVA/H.M. kVA)<sup>2</sup> to determine the efficiency of the Italian comparison unit at a rating equal to that of the U.S. unit. The correct calculation should be (U.S. kVA/H.M. kVA).<sup>75</sup>

**Department's Position:** We disagree with Westinghouse's efficiency calculation. There appears to be some confusion about the steps of the efficiency adjustment. Step 7, (U.S. kVA/H.M. kVA)<sup>2</sup>, adjusts for the differences in kVA due to changes in frequency, cooling, and temperature rise. Step 8, (U.S. kVA/H.M. kVA).<sup>75</sup>, adjusts the home market transformers for differences in kVA size due to changes in BIL. In this instance the BIL values of both transformers were identical and step 8 was not necessary before continuing with the efficiency calculation.

**Comment 3:** Westinghouse asserts that, in its United States price calculation, the Department used an inflated price for the units Ansaldo sold to the U.S. Since the units were part of a package sale Ansaldo may have allocated some of its transformer-related expenses to items in the contract which are not covered by the antidumping finding. According to the petitioner, the Department must review Ansaldo's cost records for the non-transformer portions of the contracts to ensure that all costs associated with the transformers are represented in the final United States price.

**Department's Position:** The Department verified the accuracy of the information Ansaldo had submitted in response to the questionnaire. Ansaldo presented documentation showing that the U.S. transformers and associated costs were covered in a separate contract from that of the larger "package" sale. We are satisfied that we used the accurate price in our calculations.

**Comment 4:** Westinghouse maintains that the Westinghouse Price Rules ("WPR") theoretical price of Ansaldo's U.S. unit should include a 15% adder for detailed purchaser specifications. The customer's specifications included special materials, construction, and manufacture. Petitioner provides discussions of items it considers "special" in the construction of the U.S.

unit such as placement of the cooler control cabinet, special wiring of controls, special instrument wire terminals, and special wire identification numbers. These items could increase the cost of manufacture of the unit by \$7000.

**Department's Position:** We disagree that the theoretical price of Ansaldo's U.S. unit should include a 15% special requirement adder. Our review of the customer's specifications indicates that the design of the transformers was not so unusual or "special" that the prices would require such a large adder. See our response to Comment 17.

**Comment 5:** Petitioner asserts that the Department must accurately account for the tested sound level of the U.S. unit. According to the customer's specifications, Ansaldo was to provide units rated at 79dB. The tested values of the units were actually 73dB, thereby giving the units more value than the contract require. The Department should incorporate this value into the WPR theoretical price by using the WPR 48-620, Section 5, Rule 25 adjustments for variances below the standard sound level of 79dB.

**Department's position:** We disagree. The U.S. contract price was based on certain requirements which Ansaldo was obligated to meet. We are using the contract price to establish our United States price for our dumping calculations. Section 5, Rule 25 of the WPR 48-620 requires an adjustment if the customer specifies a lower sound level. Since the U.S. customer did not specify the lower sound level we have not applied Rule 25.

**Comment 6:** The Department should account for the three lightning arrester discharge counters and three insulation bases on the U.S. unit by charging \$232 for each counter and \$160 for each base as required by the WPR 48-620, Section 6, Rule 45.

**Department's Position:** We agree and have included these items in our theoretical price.

**Comment 7:** The Department should account for a temperature rise test on each of the U.S. units in the theoretical price, as specified in the contract. WPR 48-620, Section 6, Rule 39 calls for an adder of \$2666 if more than one temperature test is required on multi-unit orders.

**Department's Position:** Our preliminary calculations did not include the additional test charges because test reports for the units indicated that only one temperature rise test had been performed. We have changed our calculations, however, so that they reflect the customer's specifications requiring a test on each transformer.

As described in comment 5, we have accounted for the specifications to which the customer agreed when the contract was established.

**Comment 8:** The actual cost of the American-made bushings which the U.S. customer specified should be deducted from the United States price if they were purchased in the United States, shipped to Italy for testing on the units, and not shipped back to the U.S. with the transformers. At the same time the theoretical price of the U.S. units should reflect transformers without bushings.

**Department's Position:** Since the bushings were part of the contract price and they were shipped back to the U.S. with the transformers we have not deducted their cost from the actual United States price or the theoretical calculation. We regard these bushings as being part of the transformer and not separable for purposes of United States price calculation.

**Comment 9:** The U.S. customer's specifications required a two-year warranty which is beyond a standard one-year warranty according to the WPR. A 1% adder to the theoretical price is appropriate.

**Department's Position:** The U.S. unit had a special in/out warranty which requires a 2% adder to the theoretical price. The specifications also called for an extended warranty of greater than 12 months but no more than 24 months from date of shipment so we have included a 1% adder to account for this requirement.

**Comment 10:** The Department did not make any adjustment for a performance bond on the U.S. sale as the specifications required. Using the market rate of one to one and half percent for bonds, the Department should deduct \$11,410 from the sale price.

**Department's Position:** As the final contract between the manufacturer and its U.S. customer did not require a performance bond, we have not made a deduction for this item.

**Comment 11:** The Department misapplied the 5% export packing provision of the WPR. Its subsequent deduction of this amount was in error. Westinghouse asserts that the Department should rely solely on the WPR methodology where rules exist for contractual requirements such as packing for shipment from Italy to the United States.

**Department's Position:** We disagree that we should include the 5% export packing adder in the theoretical price of the U.S. unit. We use the WPR methodology to adjust for physical differences between the U.S. and home



market transformers. Our twelve-step procedure is essentially that which petitioner proposed in previous administrative reviews of antidumping findings on large power transformers (see the final results of administrative review on large power transformers from Italy (49 FR 31313, August 6, 1984)). We agreed with petitioner that the appropriate method of accounting for the packing of the U.S. unit was to deduct the actual cost of packing from the actual home market price, apply the theoretical ratio, and then add the actual cost of packing the U.S. unit to the adjusted home market price, much as we make circumstance of sale adjustments in these cases.

Our preliminary calculations were incorrect in that we misapplied the actual cost of packing the U.S. units to the actual home market price before, rather than after, application of the theoretical ratio. We have corrected this error in determination of these final results.

**Comment 12:** Because the U.S. units were shipped without insulating oil Westinghouse asserts that the Department must calculate a theoretical price for the U.S. units exclusive of oil which, using the WPR methodology, requires a deduction of 22 cents per gallon applicable to each unit. Using this approach, it also becomes necessary for the Department to deduct the actual cost of the oil from the U.S. contract price.

Petitioner refers to the Department's practice in previous transformer reviews of deducting from the theoretical and actual prices the applicable costs of items which were included in U.S. contracts but provided after importation of the transformers. Petitioner suggests that the Department use the figure of approximately \$1.00 per gallon which was applicable at the time of shipment of the U.S. unit.

**Department's Position:** We agree. Our appraisal of merchandise which enters the U.S. should be based on calculations which reflect the condition of the merchandise upon entry. It is therefore necessary to separate the unit prices of the imported transformer and the domestic oil since only the transformer was imported. For these final results we have deducted the cost of the oil from the contract price of the transformer using the figure of \$1.00 per gallon. We have also deducted a cost of 22 cents per gallon, as instructed in the WPR, from the theoretical price of the U.S. unit.

**Comment 13:** The Department should have deducted oil from the theoretical price of the home market unit since it was sold without oil.

**Department's Position:** We agree and have made the deduction from the WPR price.

**Comment 14:** Petitioner argues that the Department improperly allowed a ten-percent overexcitation adjustment to the theoretical price of Ansaldo's home market unit. Because this is an unusual requirement for Italian utility transformers and there is no evidence on the record to support Ansaldo's claim for this adjustment, Westinghouse submits that the Department must deny this claim.

**Department's Position:** Ansaldo's home market customer specifications contain a provision for the 10% overexcitation requirement. As in comment 5 where we explain our reliance on customer specifications in these transformer proceedings, we have included the adjustment in our theoretical calculations.

**Sale by O.E.L.**

**Comment 15:** Westinghouse reiterates its objections to the Department's decision to proceed with the review of O.E.L.'s sale to the United States in the period June 1, 1985 through May 31, 1986. Petitioner has asserted throughout the course of review that the Department has departed from its traditional procedure by reviewing a sale for which shipment of the U.S. merchandise did not occur until after the close of the current review period.

**Department's Position:** The Department's review of O.E.L.'s U.S. sale in September 1985 has not been premature. The U.S. units under review had entered the United States before we began our analysis and the U.S. customer made all payments for the transformers before publication of our preliminary results.

**Comment 16:** Westinghouse asserts that, as in the Ansaldo calculations, the Department misapplied the efficiency adjustment for the O.E.L. units. Although a correction in O.E.L.'s efficiency adjustment is advantageous to the foreign manufacturer, Westinghouse contends that the Department must apply the adjustment consistently in all cases.

**Department's Position:** We disagree that we applied the calculation incorrectly. We acknowledge that there was a mathematical error in the preliminary calculation for O.E.L.'s units. We have re-examined our calculations to ensure that we are consistently applying the adjustment.

**Comment 17:** Petitioner asserts that the theoretical prices of O.E.L.'s U.S. units must include a 15% adder for "special requirements" of the contract. Special insulating materials, wind load

requirements, and unusual characteristics of the control cabinet are, according to Westinghouse, just a few examples of the additional costs O.E.L. must have incurred to produce the U.S. units according to the customer's specifications.

**Department's Position:** We disagree with Westinghouse. The items to which petitioner refers as special and requisite of the 15% adder are not sufficiently unique and costly to warrant such a significant addition to the theoretical price. As the WPR is not specific as to the type and number of "special" requirements necessitating the 15% adder, we have evaluated these requirements on a case-by-case basis. In effect, these special requirements must be very numerous or must greatly affect the basic design of the transformer in order to justify the 15% increase. Otherwise there would be no means of distinguishing between trivial and substantial departures from ordinary specifications in establishing WPR prices on transformers.

**Comment 18:** The Department's preliminary theoretical calculations for the load tap changer ("LTC") on the U.S. units are incorrect and should be amended to accurately account for the maximum kVA of regulation and the maximum percent regulation. With this correction the figures for the LTC equipment and application charges will reflect the units as delivered to the U.S. customer.

**Department's Position:** We have recalculated the LTC equipment and application charges to reflect the maximum kVA of regulation and the maximum percent regulation.

**Comment 19:** Westinghouse argues that the Department neglected to include a 1% adder to the theoretical price of the U.S. units for the f.o.b. destination requirement. This figure in the WPR determines the risk associated with transportation, not the actual transportation cost. It is also an adjustment beyond that of normal transportation insurance.

**Department's Position:** We disagree with Westinghouse. As we state in our response at comment 11, the purpose of the WPR methodology is to adjust for physical differences between the U.S. and home market merchandise. We do not consider an f.o.b. destination requirement in the contract to represent physical differences in the merchandise. We have accounted for any risks associated with the transport of the units in the actual freight adjustment figures, including the expense of insurance against damage or loss.



*Comment 20:* Petitioner again disagrees with the Department's treatment of export packing for the U.S. unit in the preliminary calculations and maintains that we must make the adjustment within the WPR theoretical price.

*Department's Position:* We disagree with Westinghouse. See our response at comment 11.

*Comment 21:* Westinghouse contends that since the U.S. specifications of the O.E.L. units required inclusion of oil, yet oil was supplied after importation of the transformers, the Department should have made the theoretical and actual deductions from the WPR and contract prices. As in the case of the Ansaldo units, Westinghouse submits that at the time of shipment of the O.E.L. units the cost of insulating oil was approximately \$1.00 per gallon.

*Department's Position:* We agree with Westinghouse. For these final results we deducted O.E.L.'s actual cost of oil from the United States price and deducted 22 cents per gallon from the theoretical price as required by the WPR.

*Comment 22:* Petitioner argues that the Department neglected to deduct the cost of the performance bond from the United States price of the O.E.L. units. Since there was a requirement in the U.S. customer's specifications for a performance bond and O.E.L. did not present information in this regard, Westinghouse suggests that the Department use a market rate of one to one and a half percent of the value of the contract.

*Department's Position:* The customer's specifications did not require that O.E.L. provide a performance bond. Therefore, we have not made such a deduction from United States price.

*Comment 23:* Westinghouse argues that the Department inconsistently applied the rules in the WPR for transformers without tap changers. O.E.L.'s U.S. customer specified a tap changer for its units but the Department interpreted WPR 48-420, Section 7, Rule 2 to require a 4% reduction to the theoretical price. For Ansaldo's home market unit with a load tap changer the Department interpreted WPR 48-620, Section 5, Rule 15 differently and did not make the 4% reduction. Westinghouse asserts that the two rules have the same meaning and intent and there is no reasonable basis for the Department's interpretations.

*Department's Position:* We have examined the WPR and the sections regarding omission of tap changers. For these final results our interpretation of WPR 48-420, Section 7, Rule 2 is that a 4% reduction is not applicable when

load tap changing is part of the transformer's design.

*Comment 24:* Westinghouse objects to the Department's use of 8.5% as the interest rate in the credit cost calculations for O.E.L.'s U.S. sale. The Department apparently had found at verification that this was the rate at which the Italian government permitted O.E.L. to borrow funds against its U.S. contract. Petitioner asserts that the Department should not use the preferential interest rate in its calculations but should use the commercial rate (15-17%) applicable at the time of shipment.

*Department's Position:* We disagree. At verification O.E.L. submitted bank documentation that it had borrowed against the U.S. contract under review at an interest rate of 8.5%. This accurately represents O.E.L.'s cost of extending credit to the U.S. customer while waiting for payment. The commercial rate cited by petitioner is for loans denominated in Italian lira, not U.S. dollars.

*Comment 25:* Westinghouse has maintained in all transformer proceedings that the Department should not make a WPR adjustment for seismic reinforcement. It agrees with the Department's recent decision not to allow such an adjustment. Westinghouse requests, however, that if the Department finds such an adjustment to be appropriate, the Department should then account for it in the theoretical price of O.E.L.'s U.S. unit, since its specifications contained special seismic reinforcement requirements.

*Department's Position:* We have examined the appropriateness of a special seismic reinforcement adjustment in the WPR price methodology we use in these proceedings. We have taken into account the fact that transformers in the United States are frequently transported by rail and the bracing required for such transportation is comparable to the special seismic reinforcement which some foreign and U.S. customers require. Since the bracing requirement is part of standard transformer design we have not included a special adder to the WPR price for it.

*Comment 26:* Westinghouse contends that the Department improperly included an adjustment for a late delivery penalty in the determination of foreign market value in the O.E.L. analysis. Ordinary market behavior does not support such a claim and the Department is obligated to use the negotiated contract price in its calculations to accurately determine the dumping margins.

*Department's Position:* We disagree with the Westinghouse position that we should not include a late delivery penalty in our calculation of foreign market value. Our concern is that we base our United States prices and foreign market values on the customers' actual payments, which we have done by deducting the penalty from the foreign market value.

*Comment 27:* Westinghouse disagrees with the Department's adjustments to foreign market value for a commission in the O.E.L. analysis. Petitioner asserts that, since the Italian utility transformer market does not use competitive bidding, but rather uses an allocated market approach, the services of a "commissionaire" would not be necessary to gain a contract.

*Department's Position:* Since we verified that payment to an unrelated commissionaire occurred for the home market sale which we are using in our analysis, we have allowed this adjustment. Westinghouse's assertion that the Italian utility market allocates sales to the manufacturers is based on issues Ansaldo has raised with the Department. According to Ansaldo, such allocations apply to transformers with primary voltages of 220 kV or more. The O.E.L. home market unit under consideration has a primary voltage of 127 kV. The customer's contract called for a commission, we verified that O.E.L. had paid a commission, and we have deducted this amount from the foreign market value.

*Comment 28:* Westinghouse argues that the cost of warehousing the home market unit which O.E.L. has claimed as an adjustment to the foreign market value is inappropriate in the transformer cases. Manufacturers of these large items do not incur additional warehousing costs if a customer postpones delivery of a finished unit because the units can simply be placed in any available area, whether inside a building or in an outer yard of the factory. O.E.L.'s allocation of the cost of "warehouse" space which is simply unused factory floor space is not appropriate within the Department's policy on warehousing allowance.

*Department's Position:* We agree with Westinghouse and have not included an adjustment for "warehousing" of the home market unit.

*Comment 29:* Westinghouse asserts that the Department must deduct the antidumping duties from the United States prices for the O.E.L. and Ansaldo calculations. The two exporters are also the importers-of-record and are responsible for the payment of the cash deposits and any antidumping duties.



Petitioner contends that these duties represent charges included in the prices to the U.S. customers.

*Department's Position:* We disagree. Antidumping duties paid upon entry of the merchandise are only estimates. We do not know the actual amounts per sale until we complete an administrative review of the period. Therefore, the Department's practice is to make no adjustment for these duties.

*Comments by I.E.L. and N.I.E.L.*

*Comment 30:* N.I.E.L. argues that the Department may not treat it as the same company as I.E.L. I.E.L. was placed in Extraordinary Administration in 1981 and is no longer a producer of transformers. N.I.E.L. did not assume responsibility for I.E.L.'s antidumping obligations when the new company purchased I.E.L.'s assets and liabilities.

*Department's Position:* We disagree. The entire business complex of I.E.L. was transferred to N.I.E.L., including production assets, land, contracts, patents, and all commercial activity. After review of the transfer documents we conclude that the activities of I.E.L. are being continued under N.I.E.L. The fact that N.I.E.L. may not have assumed responsibility for I.E.L.'s antidumping obligations is not relevant to the determination that N.I.E.L. is the successor company. We maintain our position that N.I.E.L. is the successor company to I.E.L.

*Comment 31:* N.I.E.L. asserts that the Department inappropriately determined the I.E.L./N.I.E.L. cash deposit rate on a weighted-average margin of a 12-month period that was part of a 6-year period of review. The Department has aggregated review periods in previous transformer proceedings and should do so in this review.

*Department's Position:* We disagree. Although the review covers shipments for twelve years we established a cash deposit rate based on the last 12-month period with shipments. We believe the margin for the most recently reviewed period is generally the best estimate we have of the producer's current behavior. Therefore, it is appropriate to use the most recent rate as the cash deposit rate. This is consistent with the cash deposit rates we have established in previous reviews of these transformer findings.

*Comment 32:* N.I.E.L. asserts that the Department must adjust the foreign market value of comparison units when U.S. customers have withheld payments for certain defects or late delivery penalties. Absence of a corresponding adjustment creates an imbalanced calculation because a defective unit is being compared to a non-defective unit

or a transformer shipped on time is being compared to a unit which was shipped later than scheduled.

*Department's Position:* We disagree. Our calculations must reflect the amount the customer paid for the merchandise it received.

*Comment 33:* I.E.L. and N.I.E.L. request revocation of the antidumping finding since there have been no sales at less than fair value ("LTFV") for more than two years and no shipments for more than four years.

*Department's Position:* The decision to revoke an antidumping finding with respect to one company does not rely solely on the absence of sales at LTFV or lack of shipments. In addition, the Department must be satisfied that there is no likelihood of resumption of sales at less than fair value within the meaning of 19 CFR 353.54(a). In making such a determination, we must consider the merchandise and its market. We note that there is a limited market in the U.S. for the transformers and that there may be several years between sales of the units. Because there have been no sales by I.E.L./N.I.E.L. in several years we have decided that we lack information to determine whether there is no likelihood of resumption of sales at less than fair value. The last period reviewed for I.E.L. indicates substantial dumping margins. Until we see this firm (and its successor firm, N.I.E.L.) making sales at fair value prices a revocation would be premature.

*Comments by Ansaldo*

*Comment 34:* Ansaldo disagrees with the Department's calculations of credit income and cost for its sales. The manufacturer maintains that it builds credit costs into the payment terms of the contract. It is proper to calculate the cost of credit only when the customer does not make payments according to the contract's schedule. The transformer industry uses scheduled payments both before and after shipment to meet the costs of manufacturing these large customer-specific units. Ansaldo argues that the payments which the customer makes before shipment do not generate income in the manner which the Department calculated.

*Department's Position:* We maintain our position that if a manufacturer receives payment before shipping the merchandise the credit calculation should reflect a credit income. In our dumping calculations we need to establish a common point in order to accurately evaluate the total value to each customer of its credit terms. To do as Ansaldo suggests, and only adjust for the impact of the home market customer's delay in payment, would not

make an adjustment for the differences in the underlying terms of payment between the two markets and their effects on the contract prices.

*Comment 35:* Ansaldo asserts that the Department must make an inflation adjustment in its calculations because the home market unit was shipped sixteen months after the shipment of the U.S. unit. The Department indicated in earlier transformer notices that it "will consider an inflation adjustment" (notice of final results of review; large power transformers from Japan (51 FR 21197, June 11, 1986)). Ansaldo suggests that the Department should adjust for inflation by decreasing the home market price by 10.1% which corresponds to the inflation figure of the home market contract.

*Department's Position:* We agree that an inflation adjustment may, in some future situation, be necessary in administrative reviews of the findings on transformers. However, since Ansaldo did not provide inflationary information until after the publication of our preliminary results, we have not considered the information in these final results.

*Comment 36:* Ansaldo requests that the Department include adders in its theoretical price of the home market unit to account for the special finish requirement in the customer specifications. This requirement forces Ansaldo to provide a three-year paint guarantee when one year is the usual. In addition, the Department should not have prorated the figure for the additional thickness of paint over the standard 3 mils. The customer required a paint thickness of 5.2 mils, 2.2 mils over the standard, so the proper adder would be 3 mils. Westinghouse counters that the Department should not have prorated the 2.2 mils but should have only considered an addition for 2 mils of paint.

*Department's Position:* The Department does not consider the "special finish" requirement of the home market customer to be sufficiently different from the home market standard requirement to justify a special adder. Since transformers are subject to natural elements for as many as thirty years we do not accept a special claim for a three-year paint guarantee. We do not disagree that an additional 2.2 mils of paint was required by the customer. However, our proration of the 2.2 additional mils is not improper. Although the WPR does not address proration in this category, we maintain that if the customer requests and receives a certain thickness of paint, then the WPR price we determine for



our calculations should reflect those specifications.

#### Comments by O.E.L.

**Comments 37:** O.E.L. asserts that the Department should use the irrevocable bid date of the U.S. bid to determine the date for currency conversion in the antidumping analysis. According to a contract document which required that the terms were set with the bid and which pre-dated the actual contract, O.E.L. undertook exchange rate fluctuation risks before the actual contract was signed. The Department has used a letter of intent date in previous transformer reviews of the finding on Japanese transformers. In addition, O.E.L. maintains that general contract law stipulates that the offer was an irrevocable firm offer and, because revocation of the offer may have resulted in a breach of contract, O.E.L. had necessarily assumed all risks associated with the sale.

**Department's Position:** We disagree with O.E.L. There was no contract by the U.S. customer until the date of acceptance. In addition, the letter of intent between Japanese manufacturers and customers is actually an agreement to begin production whereas O.E.L.'s bid is simply an offer until it is accepted. Therefore, we consider the date of acceptance of O.E.L.'s offer to be the date of purchase and, therefore, the date on which to make our currency conversion according to the requirements of the Commerce Regulations (19 CFR 353.56).

**Comment 38:** A WPR price adder of \$2400 for a mounted bushing potential device for the U.S. units is not necessary because the units did not have this equipment.

**Department's Position:** We agree and have not included the figure in our theoretical price.

**Comment 39:** O.E.L. argues that the Department's inclusion of a 5% adder for export packing in the WPR price of the U.S. units and the subsequent deduction resulted in a distortion of the theoretical price. Since the developed price, which included the export packing adder, was used to calculate the load tap changer charge, the final price after deduction of the export packing amount still includes a portion of the packing due to the application of a percentage to the packing-inclusive price. O.E.L. asserts that the Department should not make the WPR adjustment at all and rely solely on the actual packing cost in its calculations.

**Department's Position:** As we discuss in Comment 11 we have not applied a 5% export packing figure to the theoretical prices of the U.S. units.

Rather, we have used actual packing costs of the U.S. units and, where applicable, of home market units in our determination.

**Comment 40:** O.E.L. contends that the theoretical price of its home market unit should include an additional 1% adder for warranty according to the WPR Section 10, rule 2. In this case, there was a warranty period of "12 months from commissioning, max. 24 months from delivery ex-factory."

**Department's Position:** We agree and have included this in our calculation of theoretical price.

**Comment 41:** O.E.L. requests that the Department use a precise conversion factor when converting the volume of oil for the home market unit from liters to gallons to make the appropriate deduction in the theoretical price.

**Department's Position:** For our preliminary results we used a common conversion factor of 1.1 quart/liter in our deduction of oil from the theoretical price. In these final results we have used a more precise conversion factor of 1.0567 quarts per liter.

**Comment 42:** The Department inconsistently calculated the time periods between dates of shipment and payment on both the U.S. and the home market units in its determination of credit income and cost. O.E.L. requests that we consistently apply our calculations. O.E.L. also notes that the Department made a clerical error in determining periods between the date of shipment and an escalation payment for the home market unit.

**Department's Position:** We have reviewed our credit calculations for any inconsistencies or clerical errors and made corrections where necessary.

**Comment 43:** O.E.L. contends that the Department mistakenly used an interest rate in its home market credit calculations that reflected the cost of only one loan and not the quarterly interest rate O.E.L. was experiencing at the time of shipment of that unit. Documents which O.E.L. presented at verification provide interest rates and additional bank charges which more accurately represent O.E.L.'s cost of borrowing during June 1986, the month of shipment.

**Department's Position:** We have recalculated the credit figures to include the bank charges and to base the credit expense on all of the loans in effect at the time of shipment.

**Comment 44:** O.E.L. asserts that the Department should allow an adjustment to foreign market value to account for prototype short-circuit testing. O.E.L. performed this short-circuit test on a home market unit which was identical in design to the unit we are using for

comparison purposes. Since the test was made for all nine units only on the prototype, an allocated amount of the cost of the test must be deducted from the foreign market value. Since the U.S. customer did not request such a test and one was not done there is a difference in the circumstances of sale and the dumping calculations should reflect the difference.

**Department's Position:** We disagree with O.E.L. Short-circuit testing is allocated to units through manufacturing overhead in much the same fashion as temperature rise and audible sound tests are allocated. We use the WPR methodology to make our comparisons and built into the WPR are several assumptions, such as the allocation of overhead, regarding the manufacture of transformers. In addition, it is possible that O.E.L. may continue to manufacture units from that prototype and the Department is not in a position to accept the allocation O.E.L. has presented.

**Comment 45:** O.E.L. indicates that the Department made a clerical error in its efficiency calculation.

**Department's Position:** As we discuss in Comment 16, we have reexamined our efficiency adjustment and made appropriate changes and corrections.

#### Final Results of Review

Based on our analysis of the comments received we have determined that the following margins exist for the firms and periods under review:

Manufacturer/exporter	Period	Margin (percent)
I.E.L.	5/74 to 5/80	17.13
I.E.L.	6/80 to 5/81	71.40
I.E.L.	6/81 to 5/85	71.40
Ansald	6/83 to 5/85	0.00
O.E.L.	6/85 to 5/86	0.00

<sup>1</sup> No shipments during the period.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required on shipments by the companies under review of large power transformers from Italy.

For any future shipments of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred



after May 31, 1986 and who is unrelated to any previously reviewed firm, a cash deposit of 0.0 percent shall be required. These deposit requirements are effective for all shipments of Italian transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Date: December 3, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary, Import Administration.

[FR Doc. 87-28391 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DS-M

### Export Trade Certificate of Review

**ACTION:** Notice of issuance of an export trade certificate of review, Application # 87-00012.

**SUMMARY:** The Department of Commerce has issued an export trade certificate of review to the U.S. Hide, Skin & Leather Association (HS & L). This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificate of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

### Description of Certified Conduct

#### Export Trade

**Products:** Preserved hides and skins, and leather in various stages of finishing.

**Related Services:** Procurement of transportation services for Products exported or in the course of being exported. Transportation services include overseas freight transportation, inland freight transportation to a U.S. export terminal, port, or gateway; packing and crating; leasing of transportation equipment and facilities; terminal or port storage; wharfage and handling; insurance; forwarder services; export sales documentation and services; and customs clearance.

#### Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

#### Members (in addition to applicant)

Anamax Corporation, Green Bay, WI; CHS Intercontinental Company, Houston, TX; Dietrich Hide Corporation, Boston, MA; Eastern Trading Company, Inc., Los Angeles, CA; A.J. Hollander & Company, Inc., New York, NY; Internet, Ltd., Bloomfield Hills, MI; Kaufmann Trading Corporation, New York, NY; M. Lyon & Company, Kansas City, MO; A. Mindel & Son, Inc., Toledo, OH; Moyer Packing Company, Souderton, PA; NAHE Texas, Inc., Pasadena, TX; National By-Products, Inc., Des Moines, IA; Newon Industries Corporation, Rutherford, NJ; Southwest Hide Company, Boise, ID; Trans Coast International, Inc., Los Angeles, CA; Trans World Hide Corporation, Cedar Rapids, IA; Union Hide Company, Inc., Oakland, CA; United Industries, Inc., Portland, OR; and WE Company, Detroit, MI. (The Chilewich Corporation has relinquished under the certificate pursuant to Section 325.15 of the Regulations.)

#### Export Trade Activities and Methods of Operation

On behalf of the Members, HS & L and the Members may: 1. Negotiate with steamship conferences, steamship lines, railroads, trucking companies, container leasing companies, insurance companies, terminals, and freight consolidators and forwarders to obtain rates and other terms for transportation services for the Members.

2. Meet and exchange information on transportation services, including:

- Potential suppliers;
- Rates and terms;

c. Other information as may be necessary to analyze, negotiate for, and procure transportation services.

3. Consolidate or distribute freight on a nonprofit basis for the Members in order to secure carload, truckload, or other volume rates or service contracts for Products exported or in the course of being exported.

4. Meet and discuss supply and demand for hides and skins in the Export Markets, including volumes desired by export customers and anticipated export prices.

5. Discuss and/or agree on terms of export sales of hides and skins, including prices to be charged to export customers by the Members.

6. Prescribe the following conditions for membership (within the meaning of § 325.2(1) of the Regulations) in this certificate:

- Any company in good standing in the U.S. Hide, Skin & Leather Association is eligible for membership.
- Any Member may resign upon giving sixty days prior written notice to HS & L.

c. New Members may be added upon proper request to HS & L and upon amendment of the certificate.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: December 4, 1987.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87-28365 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DR-M

### Environmental Protection Agency et al., Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

**Docket Number:** 87-265. **Applicant:** U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

**Instrument:** Tunable Diode Laser Spectrometer. **Manufacturer:** Unisearch Associates, Inc., Canada. **Intended Use:** See notice at 52 FR 32824, August 31,



1987. *Reasons For This Decision:* The foreign instrument is capable of detecting NO<sub>2</sub> and HNO<sub>3</sub> at 0.5 ppb levels of concentration. *Instrument Ordered:* September 30, 1985.

*Docket Number:* 87-220. *Applicant:* University of Washington, Seattle, WA 98195. *Instrument:* Thermal Ionization Mass Spectrometer, Model VG Sector. *Manufacturer:* VG Isotopes Ltd., United Kingdom. *Intended Use:* See notice at 52 FR 32823, August 31, 1987. *Reasons For This Decision:* The foreign instrument provides automated multicollection and analysis of data of small samples of Ph, Nd, E, and Rb/Si Ratio. *Instrument Ordered:* December 16, 1986.

*Comments:* None received.

*Decision:* Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as each instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time each foreign instrument was ordered. The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in these cases, received no timely response to a formal request for quotation, it is

apparent that the domestic manufacturers were either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as each foreign instrument was intended to be used at the time it was ordered.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 87-28393 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DS-M

### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

*Docket Number:* 88-026. *Applicant:* University of Pittsburgh, Department of Chemical Engineering, 1249 Benedum Hall, Pittsburgh, PA 15261. *Instrument:* High Pressure PVT Cell, Model JEFRI 155-10-PVT. *Manufacturer:* D. B. Robinson and Associates, Canada. *Intended Use:* Investigations of the densities, compositions and visual characteristics of mixtures of CO<sub>2</sub>, oil and brine, and supercritical suspensions of CO<sub>2</sub> solid particle mixtures. Experiments will be conducted to acquire accurate data for these systems and then to model the behavior.

*Application Received by Commissioner of Customs:* November 3, 1987.

*Docket Number:* 88-027. *Applicant:* Scripps Clinic and Research Foundation, 10666 N. Torrey Pines Road, LaJolla, CA 92037. *Instrument:* Electron Microscope, Model CM12. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* Studies of various biological materials to obtain direct structural information using the methodology of electron crystallography. The goals of the investigations are to understand how the subcellular organelles or assemblies function and to elucidate the part they play in the life of the cell. These investigations will include studies of the following:

1. Gap junctions, communicating junctions and acetylcholine receptors.
2. Nuclear pore complexes and the cytoskeleton in yeast.
3. Gonococcal pili and macrophages infected with *salmonella*.
4. Microtubules and muscle proteins.
5. DNA of *Serratia* mutants.
6. Poliovirus, hepatitis B virus and murine retrovirus.
7. Cytotoxins in the cell.

In addition, the instrument will be used for pre- and post-doctoral training in the use of the electron microscope as a research tool. *Application Received by Commissioner of Customs:*

*Docket Number:* 88-028. *Applicant:* University of Wisconsin, Department of Geology and Geophysics, 1215 W. Dayton Street, Madison, WI 53706.

*Instrument:* Mass Spectrometer, Model VG 354/S. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used primarily for the study of geological samples such as rocks and minerals collected from the surface of the Earth. The emphasis of the research will be to trace the origin of various terrestrial materials within the context of the origin and the evolution of the Earth.

*Application Received by Commissioner of Customs:* November 9, 1987.

*Docket Number:* 88-029. *Applicant:* University of Southwestern Louisiana, P.O. Box 41008, Lafayette, LA 70504.

*Instrument:* Scanning Attachment for H-600 Electron Microscope, Model H-6010. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* The instrument is an accessory to an existing electron microscope which is being used in various projects ranging from comparative ultrastructural studies to molecular studies requiring high resolution scanning and transmission microscopy. The research projects will include the following:

Dynamics and organization of the cytoskeleton in protist and plants cells.

Studies of cell motility to include development and three-dimensional configuration of the flagellar apparatus of dinoflagellates and the intracellular movements during cell division in monoplastidic plant cells.

Comparative ultrastructure and evolution of dinoflagellates and early land plants.

Ontogenetic divergence in form and function of decapod crustaceans.

Enzyme localization during development and yolk platelet degradation during preemergent development in brine shrimp.

Ultrastructure of cricket excretory system and ion and water regulation in insects.



*Application Received by Commissioner of Customs:* November 9, 1987.

*Docket Number:* 88-030. *Applicant:* University of Southwestern Louisiana, P.O. Box 4100, Lafayette, LA 70504. *Instrument:* Electron Microscope, Model H-7000-3. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* The instrument will be used in various projects ranging from comparative ultrastructural studies to molecular studies requiring high resolution scanning and transmission microscopy. The research projects will include the following:

Dynamics and organization of the cytoskeleton in protist and plant cells.

Studies of cell motility to include development and three-dimensional configuration of the flagellar apparatus of dinoflagellates and the intracellular movements during cell division in monoplastidic plant cells.

Comparative ultrastructure and evolution of dinoflagellates and early land plants.

Ontogenetic divergence in form and function of decapod crustaceans.

Enzyme localization during development and yolk platelet degradation during premergent development in brine shrimp.

Ultrastructure of cricket excretory system and ion and water regulation in insects.

*Application Received by Commissioner of Customs:* November 9, 1987.

*Docket Number:* 88-032. *Applicant:* Virginia Commonwealth University, Medical College of Virginia, Department of Physiology, 1101 E. Marshall Street, Sanger Hall, Richmond, VA 23298-0001. *Instrument:* Rapid Kinetics Accessory, Model SFA-11. *Manufacturer:* HI-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used in research projects to obtain a quantitative description of the kinetics of  $Ca^{2+}$  release from isolated sarcoplasmic reticulum induced by 1,4,5-triphosphoinositol ( $IP_3$ ). *Application Received by Commissioner of Customs:* November 10, 1987.

*Docket Number:* 88-033. *Applicant:* Brigham Young University, Provo, UT 84602. *Instrument:* Nitrogen Dioxide Analyzer, Model LMA-3. *Manufacturer:* Scintrex, Canada. *Intended Use:* The instrument will be used in environmental atmospheric chemistry field studies to determine the concentration of  $NO_2$  in environments where the concentration of  $NO_2$  is small relative to  $NO$ . The studies will require real-time monitoring and detection of concentrations as low as 100 ppt. The data will be used in studies which have

as their objective the determination of nitrogen oxide chemistry in indoor air environments where emissions from such sources as cooking, combustion of wood or oil, and environmental tobacco smoke are present. *Application Received by Commissioner of Customs:* November 12, 1987.

Frank W. Creel,  
Director, Statutory Import Programs Staff.  
[FR Doc. 87-28394 Filed 12-9-87; 8:45 am]  
BILLING CODE 3510-DS-M

#### [Docket No. 7110-01]

#### Actions Affecting Export Privileges; Harvey Mendelsohn

In the Matter of: Harvey Mendelsohn, Respondent; Docket No. 7110-01.

#### Summary

Pursuant to the consent agreement reached by the Department of Commerce (Department) and Harvey Mendelsohn (Mendelsohn) in the above captioned proceeding, which agreement is approved by the Administrative Law Judge (ALJ) in his Recommended Decision and Order, Harvey Mendelsohn, with a mailing address at Clapp & Eisenberg, 80 Park Plaza, Newark, New Jersey, 07102, is assessed a civil penalty in the amount of \$5,000.00.

#### Order

On November 6, 1987, the ALJ issued his Recommended Decision and Order approving the consent proposal submitted by the parties in the above referenced matter. The Recommended Decision and Order was referred to me pursuant to the Export Administration Amendments Act of 1985, 50 U.S.C. App. 2412, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a) (the Act), for final action.

The Recommended Decision and Order of the ALJ is as follows:

#### Recommended Decision and Order Affirming Consent Agreement

An administrative proceeding was initiated against Harvey Mendelsohn, pursuant to Section 13(c) of the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401-2420), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) (the Act), and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 368-399 (1987)), (the Regulations). The Office of Export Administration issued a charging letter on February 4, 1987, alleging that on or about September 10, 1981, Mendelsohn violated Sections 387.5, 387.6, and 387.12 of the Regulations, in that:

(a) Respondent exported a U.S.-origin computer system to the United Kingdom without the required validated export license.

(b) Respondent indirectly caused false and misleading statements of material fact to be made to the Agency on an export control document.

(c) Respondent engaged in export transaction (sic) with a party denied all U.S. export privileges without prior notification to and specific authorization from the Department.

Pursuant to 15 C.F.R. § 388.17, the Agency and Respondent have agreed to and submitted a consent proposal to this office whereby Respondent Mendelsohn admits that he violated the regulations as alleged in the charging letter and that this matter is being settled by Respondent's payment of a civil penalty assessed against Mendelsohn in the amount of \$5,000.

I find that this penalty is sufficient to achieve effective enforcement of the Act and the Regulations. Therefore, pursuant to the authority delegated to me by Part 388 of the Regulations, *IT IS ORDERED THAT:*

I. Respondent Harvey Mendelsohn is assessed a civil penalty of \$5,000.

II. The civil penalty set forth above shall be paid to the Agency in the following schedule: the first installment of \$500 will be paid to the Agency on or before December 31, 1987; the second installment of \$1,500 will be paid to the agency on or before June 30, 1988; the third installment of \$1,500 will be paid to the Department on or before December 31, 1988; the fourth and final installment of \$1,500 will be paid to the Department on or before June 30, 1989.

III. This Order, as affirmed or modified, shall become effective upon entry of the Secretary's final action in the proceeding pursuant to this Act (50 U.S.C. app. § 2412(c)(1)).

Date: November 6, 1987.

Hugh J. Dolan,  
Administrative Law Judge.

Having examined the record and based on the facts adduced in this case, I affirm the Recommended Decision and Order of the ALJ and incorporate herein by reference the terms of the settlement agreement referred to above.

This constitutes final agency action in this proceeding.

Date: December 7, 1987.

Paul Freedenberg,  
Acting Under Secretary for Export Administration.

[FR Doc. 87-28392 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DT-M

#### Minority Business Development Agency

#### Business Development Center Program Applications; Minnesota

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Minority Business Development Agency (MBDA)



announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at \$194,118 for the project performance of July 1, 1988, to June 30, 1989. The MBDC will operate in the Minneapolis/St Paul Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of \$165,000 in Federal funds and a minimum of \$29,118 in Non-Federal funds which can be a combination of cash, in-kind contribution and fees for services. The award number will be 05-10-88005-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance, the availability of funds, and Agency priorities.

**CLOSING DATE:** The closing date for applications is January 22, 1988. Applications must be postmarked on or before January 22, 1988.

**ADDRESS:** Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

**FOR FURTHER INFORMATION CONTACT:** David Vega, Regional Director, Chicago Regional Office.

**SUPPLEMENTARY INFORMATION:** Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development Catalog of Federal Domestic Assistance)  
David Vega,  
Regional Director, Chicago Regional Office.

Date: December 4, 1987.

[FR Doc. 87-28279 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-21-M

## Patent and Trademark Office

[Docket No. 70470-7240]

### Electronic Data Dissemination Policies and Guidelines

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** This notice adopts amendments to the electronic data dissemination policies and guidelines that the Patent and Trademark Office (PTO) published in 49 FR 24585 on June 14, 1984. A proposal to amend these policies and guidelines was published for public comment in 52 FR 31442 on August 20, 1987. The proposal also requested comments on funding and the comment period for this purpose is extended to December 31, 1987. The purposes of this notice are to adopt the proposal by amending the pricing policy for data base products and by expanding the scope of the dissemination policies and guidelines to encompass electronic trademark as well as patent data, and to extend the period to December 31, 1987, for receiving public comments on alternatives for funding public access to patent or trademark search rooms or libraries. This notice is intended to bring PTO's pricing policy in line with OMB Circular A-130, clarify the scope of PTO's dissemination policies and guidelines, and allow submission of further public comments on funding public access.

**DATES:** Effective date December 10, 1987. Funding comments will be accepted through December 31, 1987.

**ADDRESS:** Comments should be addressed to: Donald J. Quigg, Assistant Secretary and Commissioner of Patents and Trademarks, U.S. Patent and

Trademark Office, Washington, DC 20231.

**FOR FURTHER INFORMATION CONTACT:** Bradford R. Huther at 703-557-1572.

**SUPPLEMENTARY INFORMATION:** The Patent and Trademark Office (PTO) has determined that this notice is not a major rule within the meaning of section 1(b) of Executive Order 12291. Therefore, a Regulatory Impact Analysis has not nor will be prepared. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this amended policy statement by the Administrative Procedure Act (5 U.S.C. 553(b)(A)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared. This notice does not contain a collection of information for purposes of the Paperwork Reduction Act.

### Background

On June 14, 1984, the PTO published Electronic Patent-Data Dissemination Guidelines which set forth the general principles and guidelines regarding electronic digital patent data dissemination and distribution. The amended guidelines being adopted herein cover dissemination and distribution of electronic trademark as well as patent data.

On December 12, 1985 the Office of Management and Budget issued OMB Circular A-130 entitled "Management of Federal Information Resources." The PTO is revising its pricing policy for the sale of its data base products in compliance with OMB Circular A-130. Under the revised pricing policy, PTO will recover only the marginal cost (i.e., that amount that is sufficient to cover the costs of reproduction and dissemination). This will result in a lowering of most fees charged for data base products.

Generally, prices for data base products will recover the cost of computer processing time and computer operations staff time for reproducing the data, analysis/programmer staff time for processing the data files, preparing the documentation to accompany the file, and quality checking the products; staff time for managing orders and arranging sales agreements; and general and administrative overhead for these functions. Costs for new products or special requests will be calculated using the same principle of marginal cost recovery. Prices are based on estimated costs and are subject to change upon 90 days notice to the public.

Finally, PTO is amending Guideline III, paragraph D to state that bulk resale of PTO data by commercial data base



vendors will be permitted subject to the terms of each bulk sale agreement.

At the present time, PTO is revising only the two guidelines related to data base product pricing and adding one new pricing guideline. Comments have been received on the alternatives for funding public access to the patent or trademark search rooms or libraries, as well as other aspects of electronic data dissemination which were not covered by the June 14, 1984 policies and guidelines. After the period for commenting on the funding alternatives closes on December 31, 1987, the PTO will publish comprehensive policies and guidelines for public comment.

#### Response to Comments on the Amendments

Since several respondents requested an extension to the comment period for funding alternatives, comments will be accepted through December 31, 1987 and all comments concerning the funding alternatives will be addressed after the extended public comment period closes.

Comments have been received endorsing the proposed pricing policy change and asking for clarification of several details:

**Comment:** The phrase "developed by the PTO" as used in Guideline III, paragraph C should be clarified.

**Reply:** The phrase "developed by the PTO" refers to data bases created by PTO and excludes data bases obtained through international exchange; for example, the Japanese patent text and image data bases created by the Japanese Patent Office. Further, the paragraph refers only to data which the PTO can make available for general dissemination.

**Comment:** It is unclear whether the pricing policy applies to both patent and trademark data.

**Reply:** The pricing policy applies to both patent and trademark data. When the comprehensive policies and guidelines are published at a later date, they will cover both patent and trademark data.

**Comment:** PTO should clarify the use of the word "normally" in Guideline III, paragraph D.

**Reply:** The PTO anticipates that its arrangements with commercial data base vendors will be non-exclusive. The term "normally" was included as a qualifier to allow the PTO to enter into an exclusive arrangement if such an arrangement were a necessary prerequisite for disseminating data.

**Comment:** PTO should identify its authority for enforcing limitations on

resale of tapes containing data from unrestricted public records.

**Reply:** The PTO currently does not believe that such limitations would be imposed on commercial data base vendors. The guidelines as drafted allow PTO to implement Federal policies on bulk sale of data. We do not have a complete list of circumstances when this may be done nor can we predict any future guidelines or policies. If the arrangement entered into with a commercial data base vendor requires the setting of a ceiling price on resale, as a contractual condition, the authority is found in the information policy provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, 3504 (a) and (b) and 3506. See also OMB Circular A-130, section 8.a.(11)(a).

**Comment:** PTO should explain what it means by "data base products" as used in Guideline V.

**Reply:** Data base products or information products are discrete packages of information which can be provided to a number of users without modification, and other products routinely prepared or customized from the existing electronic data base, such as the patent bibliographic data file and the patent claims file. The data base products include those that PTO already has been providing for sale to the public, such as the patent full text file, the trademark full text file, the patent master classification file, and similar products developed in the future.

Guideline III, paragraphs C and D are being modified by deleting the limiting phrase "commercial data base vendors" as an unnecessary limitation.

The Patent and Trademark Office is adopting proposed Guideline III, paragraphs C and D, modified as described above, and proposed Guideline V without modification to read as follows:

#### Electronic Data Dissemination Policies and Guidelines

##### Guideline III, Paragraphs C and D

C. Fees charged for bulk data developed by the PTO will be based on the marginal cost of providing such distribution services.

D. Normally, arrangements will be non-exclusive. Bulk resale of PTO data will be permitted subject to the terms of each bulk data sales agreement.

##### Guideline V

##### V. Data Base Product Pricing.

Fees charged to the public for U.S. patent and trademark data products will

be based on the marginal cost of providing such products

These guidelines supersede Guideline III, paragraphs C and D in PTO's notice entitled Electronic Patent Data Dissemination Policies and Guidelines published in 49 FR 24585 on June 14, 1984.

Date: October 27, 1987.

Donald W. Peterson,

Deputy Assistant Secretary and Deputy Commissioner of Patents and Trademarks.  
[FR Doc. 87-28370 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-16-M

#### Advisory Committee for Patents and Trademarks; Open Meeting

**AGENCY:** Patent and Trademark Office, Commerce.

**SUMMARY:** The Committee was established on December 17, 1986, to advise the Patent and Trademark Office on domestic and foreign patent issues, international trademark matters, the Administration of the Office, and its office-wide automation program.

**Time and Place:** January 8, 1988, from 9:00 a.m. to 4:30 p.m. The Committee will meet in the Commissioner's Conference Room, at the Patent and Trademark Office, located in Crystal City, Arlington, VA.

##### Agenda:

- (1) Orientation
- (2) Automation Activities
- (3) Quality Products
- (4) Innovation Promotion

**Public Observation:** The meeting will be open to public observation; approximately 12 seats will be available for the public on a first-come, first-served basis. If time permits, oral comments by the public of no more than three minutes on each topic within the above agenda will be allowed. Written comments and suggestions will be accepted before or after the meeting on any of the agenda matters.

For specific location details and further information contact: Donald G. Kelly, Executive Assistant to the Assistant Secretary, Crystal Plaza 3, Room 11E10, Patent and Trademark Office, Washington, DC 20231. Telephone: 703/557-3071.

Date: December 4, 1987.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 87-28376 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-16-M



# COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

## Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

December 4, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 10, 1987. For further information contact Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-8041. For information on embargoes and quota re-openings, please call (202) 377-3715.

### Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the previously established import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Groups I, II, and III, and specific individual categories within the group, produced or manufactured in Korea and exported during 1987.

### Background

A CITA directive dated December 23, 1986 (51 FR 47044) established import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Under the terms of the Bilateral Textile Agreement of November 21 and December 4, 1986, as amended, and at the request of the Government of the Republic of Korea, the limits for Categories 300-320, 360-363, 369-0, 400-429, 464-469, 600-627, 665-669 and 670-0, as a group (Group I), within the group individual Categories 313, 315, 319, 410, 604, 605-C, 612, 669-F, 669-P and 669-T; Categories 330-354, 359, 431-448, 459, 630-654 and 659, as a group (Group II), within the group individual Categories

333/334, 335, 336, 338/339, 342, 347/348, 433/434, 435, 436, 442, 443, 444, 447, 448, 633/634/635, 638/639, 641, 642, 643, 644, 647/648 and 659-C; Categories 831-844 and 847-859, as a group (Group III), within the group individual Category 835; and Category 845 in Group IV are being adjusted, variously, for swing, carryforward and carryover.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983, (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

December 4, 1987.

### Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
Department of the Treasury,  
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, concerning imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on December 10, 1987, the directive of December 23, 1986 is amended to include adjustments to the previously established restraint limits for cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, under the terms of the bilateral agreement of November 21 and December 4, 1986, as amended <sup>1</sup>:

<sup>1</sup> The agreement provides, in part, that: (1) Group limits, specific limits and sublimits may be

Category	Adjusted 12-mo limit <sup>1</sup>
<b>Group I</b>	
300-320, 360-363, 369-0- <sup>2</sup> , 400-429, 464-469, 600-627, 665-669 and 670-0 <sup>3</sup> , as a group	435, 282, 402 square yards.
<b>Sublevel within Group I</b>	
313	55,258,284 square yards.
315	25,226,941 square yards.
319	8,851,255 square yards.
410	4,843,864 square yards.
604	614,734 pounds.
605-C <sup>4</sup>	2,759,180 pounds.
612	104,038,661 square yards.
669-F <sup>5</sup>	734,727 pounds.
669-P <sup>6</sup>	3,900,466 pounds.
669-T <sup>7</sup>	5,697,339 pounds.
<b>Group II</b>	
330-354, 359, 431-448, 459, 630-654 and 659, as a group	695,112,046 square yards.
<b>Sublevel within Group II</b>	
333/334	74,024 dozen.
335	75,586 dozen.
336	47,244 dozen.
338/339	780,092 dozen.
342	81,308 dozen.
347/348	342,319 dozen.
433/434	18,402 dozen of which not more than 14,050 dozen shall be in Category 433 and not more than 7,206 dozen shall be in Category 434.
435	33,477 dozen.
436	14,171 dozen.
442	47,887 dozen.
443	28,180 dozen.
444	4,267 dozen.
447	87,188 dozen.
448	33,692 dozen.
633/634/635	1,437,252 dozen of which not more than 641,863 dozen shall be in Category 635.
638/639	5,687,825 dozen.
641	1,049,754 dozen.
642	87,464 dozen.
643	64,108 dozen.
644	94,486 dozen.
647/648	1,258,775 dozen.
659-C <sup>8</sup>	480,370 dozen.
<b>Group III</b>	
831-844 and 847-859, as a group	14,728,198 square yards.
<b>Sublevel within Group III</b>	
835	29,034 dozen.
<b>Individual Level</b>	
845	2,356,642 dozen.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1986.

<sup>2</sup> In Category 369-0, all TSUSA numbers except 706.3210, 706.3650 and 706.4111 (369-L).

<sup>3</sup> In Category 670-0, all TSUSA numbers except 706.3415, 706.4130 and 706.4135 (670-L).

exceeded by designated percentages for swing, carryforward and/or carryover. No carryforward will be available in the final agreement year, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.



\* In Category 605-C, only TSUSA numbers 316.5500 and 316.5800.  
 \* In Category 669-F, only TSUSA numbers 355.4520 and 355.4530.  
 \* In Category 669-P, only TSUSA numbers 385.5300.  
 \* In Category 669-T, only TSUSA numbers 386.1105 and 389.6210.  
 \* In Category 659-C, only TSUSA numbers 381.3325, 381.9805, 384.2205, 384.2530, 384.8606, 384.8607 and 384.9310.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

James H. Babb,  
 Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-28277 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DR-M

### Amendment and Establishment of an Import Limit for Certain Cotton and Wool Textile Products Produced or Manufactured in the Polish People's Republic

December 7, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 11, 1987. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

### Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements has directed the Commissioner of Customs to increase the restraint limit for Category 434 and establish a designated consultation level for Category 313 for the period January 1, 1987 through December 31, 1987.

### Background

On January 9, 1987 a notice was published in the *Federal Register* (52 FR 854), which announced, among other things, an aggregate limit and, within the aggregate, individual import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 313 and 434, produced or manufactured in the Polish People's Republic and exported during the

current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Governments of the United States and the Polish People's Republic have agreed to amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984 to increase the designated consultation level for Category 434 and to convert the minimum consultation level for Category 313 to a designated consultation level for the current agreement period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 7, 1987.

### Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 24, 1986 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Polish People's Republic and exported during the period which began on January 1, 1987 and extends through December 31, 1987.

Effective on December 11, 1987, the directive of December 24, 1986 is hereby amended to increase the previously established restraint limit for wool textile products in Category 434 and establish an individual limit for cotton textile products in Category 313 for the period January 1, 1987 through December 31, 1987.

Category	Twelve-month limit <sup>1</sup>
313	2,000,000 square yards.
434	4,704 dozen.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1986.

For the import period January 1, 1987 through October 31, 1987, zero charges have been made to the individual limit established for Category 313.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,  
 Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-28361 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DR-M

### Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 11, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, please call (202) 377-3715.

### Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during 1987.

### Background

A CITA directive dated December 23, 1986 was published in the *Federal Register* (51 FR 47046) which established import restraint limits for certain individual categories of cotton and man-made fiber textile products, group limits for cotton, wool and man-made fiber



textile products in Groups II and III, and individual categories within the groups, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A further CITA directive dated August 3, 1987 (52 FR 29239) established an import restraint limit for cotton and man-made fiber textile products in Category 342/642 for the six-month period which began on July 1, 1987 and extends through December 31, 1987.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand, and at the request of the Government of Thailand, the previously established import restraint limits for individual Categories 300, 301pt. (only TSUSA numbers 300.6025, 300.6027 and 300.6028), 301pt. (only TSUSA numbers 302.—26 and 302.—28), 313, 314, 315, 317, 319, 320, 604, 611, 613 and 669-P; Categories 330-359 and 630-659, as a group (Group II), and within the group individual Categories 331, 334/335, 336, 337, 338/339, 340, 341, 342/642, 347/348, 631, 634/635, 638, 639, 640, 641, 645/646, 647/648 and 651; and Categories 410-459, as a group (Group III), and within the group individual Categories 434, 438, 442, and 445/446; are being adjusted, variously, for carryover, carryforward, carryforward used and carryforward not used.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 20768) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to

assist only in the implementation of certain of its provisions

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 7, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, issued to you by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. This directive also amends the directive of August 3, 1987 concerning imports of cotton and man-made fiber textile products in Category 342/642 for the six-month period which began on July 1, 1987 and extends through December 31, 1987.

Effective on December 11, 1987, the directives of December 23, 1986 and August 3, 1987 are hereby amended to include adjusted restraint limits for cotton, wool and man-made fiber textile products in the following categories, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended <sup>1</sup>:

Category	Adjusted import restraint limit <sup>1</sup>
300 .....	5,463,399 pounds.
301pt. <sup>2</sup> .....	5,618,000 pounds.
301pt. <sup>3</sup> .....	1,123,600 pounds.
313 .....	15,523,417 square yards.
314 .....	11,374,917 square yards.
315 .....	22,749,834 square yards.
317 .....	7,809,878 square yards.
319 .....	8,029,354 square yards.
320 .....	13,484,421 square yards.
604 .....	936,758 pounds of which not more than 543,994 pounds shall be in Category 604pt. (TSUSA number 310.5049).
611 .....	4,430,195 square yards.
613 .....	18,400,601 square yards.
669-P <sup>4</sup> .....	2,471,920 pounds.
Group II: 330-359 and.	78,750,763 square yards equivalent.

<sup>1</sup> The agreement provides, in part, that under certain specified conditions any nonapparel (1) specific limit or sublimit may be exceeded by not more than 7 percent, provided that the amount of the increase is compensated for by an equal square yard equivalent decrease in another specific limit in the same group; (2) specific levels of restraint may be increased for carryover and carryforward up to 1 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Category	Adjusted import restraint limit <sup>1</sup>
630-659, as a group.	
Sublevels within Group II:	
331 .....	587,137 dozen pairs.
334/335 .....	72,468 dozen.
336 .....	68,052 dozen.
337 .....	73,723 dozen.
338/339 .....	795,557 dozen.
340 .....	145,350 dozen.
341 .....	151,549 dozen.
342/642 .....	145,220 dozen.
347/348 .....	247,269 dozen.
631 .....	243,781 dozen pairs.
634/635 .....	537,010 dozen.
638 .....	174,595 dozen.
639 .....	1,592,774 dozen.
640 .....	311,905 dozen.
641 .....	318,552 dozen.
645/646 .....	105,722 dozen.
647/648 .....	598,792 dozen.
651 .....	35,727 dozen.
Group III:	
410-459, as a group.	3,016,800 square yards equivalent.
Sublevels within Group III:	
434 .....	12,190 dozen.
438 .....	16,059 dozen.
442 .....	14,453 dozen.
445/446 .....	16,008 dozen.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1986 and, in the case of Category 342/642, after June 30, 1987.

<sup>2</sup> In Category 301pt., only TSUSA numbers 300.6025, 300.627 and 300.6028.

<sup>3</sup> In Category 301pt., only TSUSA numbers 302.—26 and 302.—28.

<sup>4</sup> In Category 669-P, only SUSA number 385.5300.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-28362 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DR-M

#### Adjustment of an Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in Uruguay

December 4, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive



published below to the Commissioner of Customs to be effective on December 11, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

#### Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the restraint limit for wool textile products in Category 410, which are exported from Uruguay during the twelve-month period which began on February 1, 1987 and extends through January 31, 1988.

#### Background

A CITA directive dated February 6, 1987 (51 FR 47046) established an import limit for certain wool textile products in Category 410, produced or manufactured in Uruguay and exported during the twelve-month period which began on February 1, 1987 and extends through January 31, 1988. Pursuant to a request from the Government of the Republic of Uruguay and under the terms of the Bilateral Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, between the Governments of the United States and the Republic of Uruguay, Category 410 is being increased for carryover.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

The letter to the Commissioner of Customs and the actions taken pursuant

to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**James H. Babb,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

December 4, 1987.

#### Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
*Department of the Treasury, Washington, D.C. 20229.*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on February 6, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports of wool textile products, produced or manufactured in Uruguay and exported during the twelve-month period which began on February 1, 1987 and extends through January 31, 1988.

Effective on December 11, 1987, the directive of February 6, 1987 is amended to include an adjusted limit of 2,354,310 square yards<sup>1</sup> for wool textile products in Category 410, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984.<sup>2</sup>

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

**James H. Babb,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 87-28363 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DR-M

#### Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Uruguay

December 4, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 11, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce,

<sup>1</sup> The limit has not been adjusted to account for imports exported after January 31, 1987.

<sup>2</sup> The agreement provides, in part, that: (1) specific limits may be exceeded by designated percentages (2) specific limits may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

(202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

#### Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amend the current import restraint limits and periods for cotton and wool textile products in Categories 335 and 442 and to establish new import limits for wool textile products in Categories 433, 434 and 435, produced or manufactured in Uruguay and exported during 1987.

#### Background

A CITA directive dated December 4, 1986 was published in the *Federal Register* (51 FR 44328) which established an import restraint limit for cotton and wool textile products, including Category 335, produced or manufactured in Uruguay and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. A subsequent directive dated June 22, 1987 (52 FR 23883) established an import restraint limit for wool textile products in Category 442, produced or manufactured in Uruguay and exported during the twelve-month period which began on July 1, 1987 and extends through June 30, 1988.

During consultations held July 27-28, 1987 between the Governments of the United States and the Republic of Uruguay agreement was reached to further amend the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, as amended.

The current specific limits for Categories 335 and 442 are being amended for the prorated periods which began, in the case of Category 335, on January 1, 1987 and extended through June 30, 1987; and, in the case of Category 442, on July 1, 1987 and extends through December 31, 1987.

The two governments also agreed to establish new specific limits for wool textile products in Categories 433, 434 and 435 for the prorated period which began on July 1, 1987 and extends through December 31, 1987. A new prorated period is also being established for Category 335 for the same period. Import restraint limits are being established for the foregoing categories at the designated levels.



A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

December 4, 1987.

#### Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
Department of the Treasury,  
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 4, 1986 and June 22, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports of cotton and wool textile products, produced or manufactured in Uruguay and exported during the twelve-month periods which began, in the case of Category 335, on January 1, 1987 and extends through December 31, 1987; and, in the case of Category 442, on July 1, 1987 and extends through June 30, 1988.

Effective on December 11, 1987 the directives of December 4, 1986 and June 22, 1987 are hereby amended to include the following amended import restraint limits and periods for Categories 335 and 442 and new limits for Categories 335, 434 and 435:

Category	6 mo. restraint limit <sup>1</sup> (January 1, 1987-June 30, 1987)
335.....	21,942 dozen.

<sup>1</sup> The limit has not been adjusted to account for any imports exported after December 31, 1986.

Category	6 mo. restraint limit <sup>2</sup> (July 1, 1987-December 31, 1987)
335.....	33,500 dozen.
433.....	7,625 dozen.
434.....	11,500 dozen.
435.....	21,500 dozen.
442.....	13,772 dozen.

<sup>2</sup> The limit has not been adjusted to account for any imports exported after June 30, 1987.

In carrying out this directive, textile products in Categories 433, 434 and 435, which have been exported to the United States during the restraint periods immediately previous to that established in this directive, shall, to the extent of any unfilled balances, be charged against the limits established for such goods during those periods. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter. Textile products in Category 335 in excess of the restraint limit which began on January 1, 1987 and extends through June 30, 1987 shall be subject to the limit established for the July 1, 1987 through December 31, 1987 period.

Also effective on December 11, 1987, you are directed to deduct from the current charges made to Category 335, 21,942 dozen and charge this amount to the limit for Category 335 established in this directive for goods exported during the period January 1, 1987 through June 30, 1987. The remaining charges for Category 335 are to be retained and charged to the limit for Category 335 established in this directive for goods exported on and after July 1, 1987 and extending through December 31, 1987.

In addition, you are directed to charge the following amounts to the limits established in this directive for Categories 433, 434 and 435. These charges are for goods imported during the periods which began on July 1, 1987 and extends through September 30, 1987.

Category	Amount to be charged
433.....	3,073 dozen.
434.....	1,839 dozen.
435.....	11,628 dozen.

In carrying out the above directions, the Commissioner of Customs should continue entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 87-28364 Filed 12-9-87; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Disposition of Void Classified Information Nondisclosure Agreements, SFs 189

**AGENCY:** Department of the Air Force, DOD.

**ACTION:** Notice.

**SUMMARY:** This notice advises all Air Force personnel and interested parties in the private sector of Air Force policy for the disposition of void Classified Information Nondisclosure Agreements (SFs 189). The SFs 189 of personnel who were not authorized access to classified information at the time they signed the form and at any time since they signed the form are null and void. Upon receipt of a written request by such an individual, Air Force records will be changed to reflect that the individual was not required to sign the SF 189 and, to the extent possible, the original SF 189 will be returned to the individual.

**FOR FURTHER INFORMATION CONTACT:** Mr. West Lemmon, HQ AFOSP/SPIB, Kirtland AFB, NM 87117-6001, Commercial (505) 844-9446, AUTOVON 244-9446.

**SUPPLEMENTARY INFORMATION:** In an effort to make certain all Air Force personnel were aware of their responsibilities to safeguard classified material, from June 1986 until August 1987, all Air Force personnel were asked to sign a Classified Information Nondisclosure Agreement (SF 189). In the case of civilians, SFs 189 were filed with the local security manager. The SFs 189 of military personnel were forwarded to the Air Force Military Personnel Center (active duty) or the Air Reserve Personnel Center (Air Reserve and Air National Guard) for microfilming into the individual's Master Personnel Records Group and the original thereafter destroyed. In August 1987, it was determined the Air Force program exceeded that required by 32 CFR 2003.20. Effective August 28, 1987, the Air Force required only personnel authorized access to classified information to sign an SF 189. The SFs 189 of personnel who were not authorized access to classified information at the time they signed the form and at any time since they signed the form are null and void. The SFs 189 of personnel who possessed a security clearance at the time they signed the agreement or at any time after they signed the agreement, therefore, remain valid. Any individual whose agreement is voided as a result of these



instructions may not obtain access to classified information until that individual is the subject of a favorable security investigation, is granted a security clearance, and executes SF 189.

For personnel whose SFs 189 are voided as a result of this notice, neither the SF 189 nor their refusal to sign an SF 189 will be used as the basis for any action or decision in regard to them. Civilian personnel will be advised that if they qualify under the above criteria and submit a written request for their original SFs 189 will be returned to them. Military members will be advised that if they so qualify and submit a written request they will receive a certification of records purge from their Master Personnel Records. In addition, any reference to the SF 189 reflected in the Personnel Data System will be corrected.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 87-28379 Filed 12-9-87;8:45am]

BILLING CODE 3910-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[ERA Docket No. 87-53-NG]

#### Tennessee Gas Pipeline Co.; Application To Import Canadian Natural Gas

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of application to import Canadian natural gas and notice of withdrawal of a pending application.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 29, 1987 of an application filed by Tennessee Gas Pipeline Company (Tennessee) to import up to 25,000 Mcf per day of Canadian natural gas from November 1, 1987 until October 31, 2002. The natural gas would be sold to Tennessee by TransCanada Pipelines, Limited (TransCanada) and would be delivered to Tennessee through an existing interconnection with TransCanada located near Niagara Falls, New York. New facilities will be required to allow Tennessee to receive the maximum daily volumes requested.

In connection with this request, Tennessee withdrew a previous application for authority to import natural gas purchased from TransCanada, filed in ERA Docket No. 81-24-NG. On October 2, 1987, the ERA received notice of Tennessee's

withdrawal of its previous application together with a certification that it had served all parties to that docket with notice of the withdrawal. The withdrawal was effective on November 2, 1987.

Tennessee's application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

**DATE:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than January 11, 1988.

#### FOR FURTHER INFORMATION CONTACT:

John Boyd, Natural Gas Division,  
Economic Regulatory Administration,  
Forrestal Building, Room GA-076,  
1000 Independence Avenue, SW.,  
Washington, DC 20585, (202) 586-4523  
Diane Stubbs, Natural Gas and Mineral  
Leasing, Office of General Counsel,  
U.S. Department of Energy, Forrestal  
Building, Room 6E-042, 1000  
Independence Avenue, SW.,  
Washington, DC 20585, (202) 586-6667.

#### SUPPLEMENTARY INFORMATION:

Tennessee, a division of Tenneco Inc., is a Delaware corporation engaged in the business of producing, purchasing, transporting, and selling natural gas. Tennessee would purchase natural gas from TransCanada pursuant to a proposed gas purchase contract which provides for the following purchase schedule:

Period	Daily contract quantity in Mcf
Nov. 1, 1987 to Oct. 31, 1988.....	5,000
Nov. 1, 1988 to Oct. 31, 1989.....	10,000
Nov. 1, 1989 to Oct. 31, 1990.....	20,300
Nov. 1, 1990 to Oct. 31, 2002.....	25,000

The daily contract quantity may be adjusted by the parties but cannot exceed 25,000 Mcf per day.

Tennessee states that no new facilities would be needed to receive the initial contract quantity of 5,000 Mcf per day. Tennessee has an application pending at the Federal Energy Regulatory Commission (FERC) for authorization to construct and operate additional facilities on Tennessee's Niagara spur which will allow Tennessee to receive the anticipated maximum daily contract quantity of 25,000 Mcf.

The proposed purchase contract provides that Tennessee will, on a monthly basis, take or pay for 20 percent of the contract quantity in effect during the month. There are various other

contractual provisions that allow Tennessee the opportunity to recover its take-or-pay costs.

Tennessee's precedent agreement provides that it will contract with TransCanada for the above volumes of natural gas at a price structured as a two-part rate. The demand charge will be the sum of the monthly demand toll per Mcf on TransCanada's system as determined by Canada's National Energy Board and in effect on the first day firm gas is transported for this import and the monthly demand toll per Mcf as billed to TransCanada by NOVA, an Alberta Corporation, for its transportation of that gas to TransCanada's system. The base commodity rate for the minimum monthly quantity will be determined by Tennessee's Weighted Average Cost of Gas (WACOG) per MMBtu purchased from producers in the field as reflected in its Purchased Gas Adjustment (PGA) filing with the FERC on the first day of the month in which gas is delivered under this agreement. The minimum monthly quantity is defined as for any given calendar month a volume of gas equal to 20 percent of the daily contract quantity in effect for the month times the days of the month. For any gas taken in excess of the minimum monthly quantity, a negotiated commodity rate is to be established between the parties prior to the month of delivery.

Tennessee has requested that the ERA expeditiously issue this notice and shorten the comment period. Tennessee's request states that all the intervenors in the previous ERA docket, now withdrawn, in which Tennessee requested import authorization for natural gas to be purchased from TransCanada have been served with copies of the new application.

Except in emergency circumstances, ERA administrative procedures generally require a 30-day notice period. Tennessee has not identified any emergency circumstances that would justify deviating from normal practice and shortening the comment period. The contractual relationship between Tennessee and TransCanada is complex and interested parties are entitled to ample time to analyze and respond to the application. Also, it cannot be assumed that only intervenors in the previous Tennessee/TransCanada docket will have a legitimate interest in the present application. Therefore, Tennessee's request for a shortened comment period is denied.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import



arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Tennessee maintains that the long history of uninterrupted sales of Canadian gas to the United States clearly demonstrates the security of the gas to be imported. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

#### Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.d.t., January 11, 1988.

The Administrator intends to develop a decisional record on the application through parties' responses to this notice, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, a conference, an oral presentation, or trial-type hearing. Any request to file additional written comments would explain why they are necessary. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for an oral presentation should identify the substantial question of fact,

law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties to this notice, in accordance with 10 CFR 590.316.

A copy of Tennessee's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 3, 1987.

**Robert L. Davis,**

*Director, Office of Fuels Programs, Economic Regulatory Administration.*

[FR Doc. 87-28396 Filed 12-9-87; 8:45 am]

BILLING CODE 6450-01-M

#### [ERA Docket No. 87-47-NG]

#### Victoria Gas Corp.; Order Granting Blanket Authorization To Import Natural Gas

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of order granting blanket authorization to import natural gas.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Victoria Gas Corporation (Victoria) blanket authorization to import natural gas. The order issued in ERA Docket No. 87-47-NG authorizes Victoria to import up to 72 Bcf of natural gas over a two-year period.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 30, 1987.

**Constance L. Buckley,**

*Director, Natural Gas Division, Office of Fuels Programs Economic Regulatory Administration.*

[FR Doc. 87-28397 Filed 12-9-87; 8:45 am]

BILLING CODE 6450-01-M

#### [Docket No. ERA-R-79-19]

#### Annual Reports From States and Non-Regulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice and availability of Form ERA-166.

**SUMMARY:** Sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (PURPA) require State regulatory authorities and certain nonregulated utilities to submit to the Department of Energy (DOE) annual reports on their progress in considering ratemaking and other regulatory standards established by Titles I and III of PURPA. Under the present DOE regulations (10 CFR Part 463), as amended, each of the reporting entities must file an annual report by February 28, 1988, covering the calendar year 1987 reporting period. All reports are to be made on Form ERA-166.

**DATE:** Reports are due by February 28, 1988.

**ADDRESS:** All completed Forms ERA-166 should be addressed to: Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Form ERA-166, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue SW., Room GA-076, Washington, DC 20585, Phone (202) 586-9506.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 1, 1979 (44 FR 47264, August 13, 1979), DOE issued a rule (10 CFR Part 463) setting forth the manner in which State regulatory authorities and certain nonregulated gas and electric utilities are required to report on their consideration of the ratemaking and other regulatory standards established



by sections 111(d), 113(b), and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA).

On August 4, 1982 (47 FR 33679), DOE amended Part 463 by revising § 463.3(a) and (c). The revised rule requires the reporting entities to file their annual reports on February 28 of each year. Each annual report must cover the immediately preceding calendar year (for example, the report due on February 28, 1988, shall cover the period January 1, 1987–December 31, 1987).

## II. The Report Form

The Form ERA-166 is identical to the form published on November 28, 1986 (51 FR 42994) except for date changes. It was approved by the Office of Management and Budget (OMB Control Number 1903-0060), and is being sent to each electric and gas utility listed in Appendices A and B of ERA Federal Register notice [Docket No. ERA-R-79-43B] which is published annually at the end of each calendar year. Copies of this form are also available upon request from this office at the address referenced in this announcement.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, DC, on December 4, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-28398 Filed 12-9-87; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

[Project No. 9866-002]

### Birch Power Company, Inc.; Surrender of Preliminary Permit

December 4, 1987.

Take notice that Birch Power Company, Inc., permittee for the proposed Williams Creek Project, has requested that its preliminary permit be terminated. The permit was issued on July 25, 1986, and would have expired on June 30, 1989. The project would have been located on Williams Creek, in Franklin County, Idaho.

The permittee filed the request on November 17, 1987, and the preliminary permit for Project No. 9866 shall remain in effect through the thirtieth day after issuance of this notice unless that day is Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following

that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28403 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-1-000]

### Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

December 7, 1987.

Take notice that on December 2, 1987, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, the following tariff sheets:

Tariff sheets	Effective date
Third Revised Sheet No. 4 .....	Jan. 1, 1988. <sup>1</sup>
First Revised Sheet No. 5 .....	Jan. 1, 1988. <sup>1</sup>
First Revised Sheet No. 40A .....	Aug. 1, 1987. <sup>2</sup>
Second Revised Sheet No. 47 ....	Sept. 1, 1987. <sup>1</sup>
Second Revised Sheet No. 50 ....	Sept. 1, 1987. <sup>1</sup>
First Revised Sheet No. 50A .....	Sept. 1, 1987. <sup>1</sup>
First Revised Sheet No. 61 .....	Jan. 1, 1988. <sup>1</sup>
First Revised Sheet No. 62 .....	Jan. 1, 1988. <sup>1</sup>
First Revised Sheet No. 63 .....	Jan. 1, 1988. <sup>1</sup>
First Revised Sheet No. 64 .....	Jan. 1, 1988. <sup>1</sup>
First Revised Sheet No. 65 .....	Jan. 1, 1988. <sup>1</sup>
Alternate Third Revised Sheet No. 4.	Jan. 1, 1988. <sup>1</sup>

<sup>1</sup> First Revised Volume No. 1.

<sup>2</sup> Original Volume No. 1.

Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers, to delete the Incremental Pricing Surcharge provisions, and to add a provision for collecting the FERC Annual Charge. Alabama-Tennessee states that the changes in its rates are made in conformity with the related provisions of its tariff.

Third Revised Sheet No. 4 provides for the following rates:

Rate schedule	Rate after adjustment
CD:	
Demand .....	D1 \$4.81
	D2 7.22
Commodity .....	7.23
Gas .....	211.94
G:	
Demand .....	D1 \$4.81
	D2 7.22
Commodity .....	7.23
Gas .....	211.94
SG:	
Commodity .....	17.16
Gas .....	244.35
I:	
Commodity .....	12.92
Gas .....	229.26
IT:	
Maximum .....	10.41
Minimum .....	0.53

Alternate Third Revised Sheet No. 4 provides for the following rates:

Rate schedule	Rate after adjustment
CD:	
Demand .....	D1 \$4.81
	D2 7.22
Commodity .....	7.23
Gas .....	211.94
G:	
Demand .....	D1 \$4.81
	D2 7.22
Commodity .....	7.23
Gas .....	211.94
SG:	
Commodity .....	17.16
Gas .....	244.35
I:	
Commodity .....	12.92
Gas .....	229.26
IT:	
Maximum .....	10.41
Minimum .....	0.53

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file



with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28404 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-123-000]

**Cleveland Electric Illuminating Co. et al.; Filing**

December 7, 1987.

Take notice that on December 2, 1987, the CAPCO Group tendered for filing Appendix 7 as a supplement to Schedule E of the CAPCO Basic Operating Agreement, as amended September 1, 1980, which is on file with the Commission and identified by the Rate Schedule numbers shown for each listed company:

Company	FERC Rate Schedule No.
Cleveland Electric Illuminating Company	15
Duquesne Light Company	15
Ohio Edison Company	144
Pennsylvania Power Company	35
Toledo Edison Company	27

Appendix 7 to Schedule E of the CAPCO Basic Operating Agreement provides the basis for the determination of charges applicable to Unit Capacity and Energy transactions by the CAPCO member companies from Perry Plant Unit No. 1. The services and compensation for Unit Capacity and Energy transactions from base load CAPCO Units are set forth generally in Schedule E, with specific charges from particular CAPCO Units being set forth in Appendices to Schedule E as the particular Unit comes into commercial operation. It is requested that Appendix 7 become effective on November 18, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 21, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28405 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-2-000]

**East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions**

December 4, 1987.

Take notice that on November 30, 1987, East Tennessee Natural Gas Company (East Tennessee) filed ten copies of the following revised tariff sheets to Original Vol. No. 1 of its FERC Gas Tariff to be effective January 1, 1988:

Third Revised Sheet No. 1  
Thirty-Third Revised Sheet No. 4  
Tenth Revised Sheet No. 5  
Tenth Revised Sheet No. 6  
Second Revised Sheet No. 18  
Second Revised Sheet No. 19  
Second Revised Sheet No. 22  
Third Revised Sheet No. 23  
Second Revised Sheet No. 25  
Fourth Revised Sheet No. 31  
Third Revised Sheet No. 32  
Third Revised Sheet No. 33  
Third Revised Sheet No. 35  
Second Revised Sheet No. 36  
Second Revised Sheet No. 38  
Second Revised Sheet No. 43  
Third Revised Sheet No. 120  
Ninth Revised Sheet No. 122  
Second Revised Sheet No. 134  
First Revised Sheet No. 135 through 137  
Second Revised Sheet No. 138

East Tennessee states that the purpose of these revisions is to reflect PGA Rate Adjustments pursuant to sections 22.2 and 22.3 of the General Terms and Conditions of East Tennessee's Tariff and to delete the Incremental Pricing provisions from the Tariff. East Tennessee states that its GRI adjustment is unchanged because the decrease in the charge authorized by Opinion No. 283 has been offset by a change in the Btu adjustment factor.

The Current Purchased Gas Cost Rate Adjustments reflected on Thirty-Third Revised Sheet No. 4 consist of 11.32 cents per dekatherm adjustment applicable to the gas rate and to Rate Schedule SWS, \$(2.01) dollars per dekatherm applicable to the D<sub>1</sub> component of the demand rates and a 7.54 cents per dekatherm adjustment to the D<sub>2</sub> component. The GRI adjustment under Section 25 of the General Terms and Conditions remains unchanged because the decrease in the GRI charge

from 1.52 cents to 1.51 cents pursuant to Opinion No. 283 has been offset by a change in the Btu conversion factor from 1.040 to 1.036.

The revisions also reflect a .09 cents per dekatherm surcharge adjustment to the gas rates and \$(.20) per dekatherm surcharge adjustment to the demand rates for amortizing the Unrecovered Gas Cost Account.

East Tennessee states that the current adjustment to its demand rate reflects increases in the demand rates of Tennessee Gas Pipeline Company effective August 1, 1987, and January 1, 1988. East Tennessee states that current adjustments to its gas rates reflect increases in the commodity rate of Tennessee and higher costs of other suppliers (Deferred Account).

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28346 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-34-000]

**Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff**

December 4, 1987.

Take notice that on November 30, 1987, Florida Gas Transmission (FGT) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets:

**First Revised Volume No. 1**

1st Revised Sheet No. 1  
22nd Revised Sheet No. 8  
8th Revised Sheet No. 9  
1st Revised Sheet No. 41  
1st Revised Sheet No. 42  
3rd Revised Sheet No. 43  
3rd Revised Sheet No. 44  
1st Revised Sheet No. 45



1st Revised Sheet No. 46  
1st Revised Sheet No. 47  
1st Revised Sheet No. 48  
1st Revised Sheet No. 49

Original Volume No. 3  
6th Revised Sheet No. 658

#### Reason for Filing

FGT is filing revised tariff sheets pursuant to Opinion No. 283 issued on September 29, 1987 Docket No. RP87-71-000 by the Federal Energy Regulatory Commission (Commission) approving Gas Research Institute's (GRI) 1988 Research and Development Program and Five Year Plan for 1988-1992. In Opinion No. 283 the Commission approved a GRI funding unit of 1.51 cents per Mcf, which converts to 1.47 cents per dekatherm for FGT, who is on a dekatherm billing basis.

FGT has also included in this filing revisions to Section 15 of its General Terms and Conditions of First Revised Volume No. 1 to reflect the elimination of the incremental pricing provisions and any references contained therein. The Commission issued Order No. 478 on July 27, 1987 in Docket No. RM87-28-000, *et al.*, revoking the incremental pricing regulations effective January 1, 1988.

The proposed effective date of all tariff sheets listed above is January 1, 1988.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 3 and interested state commissions and its being posted.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28347 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-121-001]

#### Gas Transport, Inc.; Compliance Filing

December 4, 1987

Take notice that on November 27, 1987, Gas Transport, Inc. ("Gas Transport") tendered for filing Fifth Revised Sheet No. 5 and Second Revised Sheet No. 82 as part of its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 1987.

Gas Transport states that the only purpose of these revised "ACA-related" tariff sheets is to comply with the "Order of the Director Accepting Annual Charge Adjustments" issued on September 29, 1987, by the Commission. Further, Gas Transport states that the revised sheets comply with the requirements of § 154.38(d)(6) of the Commission's Regulations and Order No. 472-B.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 87-28348 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-574-004]

#### Holyoke Power and Electric Co.; Filing

December 4, 1987.

Take notice that on November 20, 1987, Holyoke Power and Electric Company tendered for filing a refund report pursuant to Commission Order dated October 21, 1987. Refunds were made on November 5, 1987 to its customers Holyoke Water Power Company and Western Massachusetts Electric Company for dismantlement costs paid.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 17, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28349 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-26-000]

#### Natural Gas Pipeline Company of America; Changes in Rates

December 7, 1987.

Take notice that on December 1, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing Sixty-ninth Revised Sheet No. 5 and Third Substitute Thirty-fourth Revised Sheet No. 5A to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective January 1, 1988.

Natural states that the revised tariff sheet reflects the GRI surcharge related to the Gas Research Institute's 1988 Research and Development Program as approved by Commission Opinion No. 283 (Docket No. RP87-71-000) issued September 29, 1987. The approved rate of 1.51¢ per Mcf converts to 1.46¢ per Mcf under Natural's billing basis.

A copy of this filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before December 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28406 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M



[Docket No. CP86-582-016]

**Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff**

December 7, 1987.

Take notice that on December 1, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing the below listed tariff sheets to be a part of its FERC Gas Tariff to be effective January 1, 1988:

*Third Revised Volume No. 1*

Fifth Revised Sheet No. 5F  
Second Revised Sheet No. 91  
Substitute Original Sheet No. 127  
Substitute Original Sheet No. 128  
Original Sheet No. 163  
Original Sheet No. 164

*First Revised Volume No. 1A*

Title Pages  
Original Sheet Nos. 1 through 10  
Original Sheet Nos. 21 through 72  
Original Sheet Nos. 101 through 118  
Original Sheet Nos. 201 through 231

*Second Revised Volume No. 2*

Third Revised Sheet No. 2083  
Third Revised Sheet No. 2190  
Fourth Revised Sheet No. 2365

Natural states that the tariff sheet were submitted in compliance with the Commission's Order issued November 10, 1987, at Docket Nos. CP86-582-002, *et al.* in which Natural was issued a blanket transportation certificate pursuant to Subpart G of Part 284 of the Commission's regulations. Natural requested waiver of the Commission's Regulations to the extent necessary to make the tariff sheets effective January 1, 1988.

A copy of the filing was mailed to Natural's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list at Docket Nos. CP 86-582-000, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before December 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28407 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-90-000]

**Northern Natural Gas Co., Division of Enron Corp.; Request Under Blanket Authorization**

December 7, 1987.

Take notice that on November 23, 1987, Northern Natural Gas Company, Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-90-000, A request pursuant to Northern's blanket authority granted on September 1, 1982 at Docket No. CP82-401-000 and §§ 157.211(b) and 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authority to install and operate one (1) small volume measurement station to accommodate natural gas deliveries to one (1) non-right-of-way grantor served by the local distribution company, Peoples Natural Gas Company (Peoples), under the authorization issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to install and operate one (1) small volume measurement station as follows:

End-user	Distribu- tor	Location	End-use
Woodman Iannitti.	Peoples	Sec. 22, Twp. 18, Rge. 10, Rice County, KS.	Oil well engine fuel.

Northern states that deliveries to one small volume measurement station will be made within the existing firm entitlement of Peoples.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for

filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28350 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-206-031]

**Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff**

December 7, 1987.

Take notice that on December 1, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern) tendered for filing proposed changes to its F.E.R.C. Gas Tariff.

Northern states that the purpose of this filing is to implement the terms of its Stipulation and Agreement (Settlement) filed in the above-proceeding. By implementing the terms of its Settlement, and containing its tariff to comply with the settlement provisions. Northern will be able to perform open access transportation under Part 284 of the Commission Regulations, it is stated.

The compliance filing is composed of three major segments: (1) Final settlement sales and transportation rates, (2) changes to implement new services and modifications to existing tariffs as ordered by the Commission, and (3) CD turnbacks/conversions along with a related D-1 rate adjustment.

Copies of the filing were served upon Northern's jurisdictional customers, state regulatory commissions and parties of record to the proceedings in the above docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before December 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28408 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M



## [Docket No. ER88-124-000]

**Pacific Gas and Electric Co.; Filing**

December 7, 1987.

Take notice that on December 3, 1987, Pacific Gas and Electric Company (PG&E) tendered for filing rates revised in accordance with FERC Order No. 475, to reflect the effects of the Tax Reform Act of 1986. The rates are those charged to the Department of Water Resources of the State of California (DWR) under the PG&E/DWR Comprehensive Agreement, Rate Schedule FERC No. 77. PG&E proposes a July 1, 1987 effective date for such rates.

Copies of this filing were served upon DWR and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 21, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28351 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

## [Docket No. RP87-95-003]

**Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff**

December 4, 1987.

Take notice that on December 1, 1987 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing First Substitute Third Revised Sheet No. 43-6 to its FERC Gas Tariff, Original Volume No. 1.

Panhandle states that the revised tariff sheet is being submitted pursuant to the Commission's Order of November 16, 1987 in Docket No. RP87-95-000 and Order No. 472-B issued on September 16, 1987 in Docket No. RM87-3-000.

Panhandle states that subsequent to the instant filing, it made a compliance filing on October 27, 1987 in RP82-58, *et al.*, pursuant to Ordering Paragraph (D) of the Commission's Order dated September 30, 1987 in Docket No. RP87-103-000. In order to reflect Panhandle's

compliance filing in Docket No. RP82-58, *et al.* and the Annual Charge Adjustment (ACA) at October 1, 1987, Panhandle hereby submits Second Substitute Sixtieth Revised Sheet No. 3-A and Second Substitute Thirty-Seventh Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1.

Copies of the filing were served on the Company's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28352 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

## [Docket No. ER87-277-002]

**Public Service of New Hampshire; Filing**

December 7, 1987.

Take notice that on October 28, 1987, Public Service of New Hampshire (PSNH) tendered for filing pursuant to Federal Energy Regulatory Commission Regulation 18 CFR 35.19(a) a refund report. Refunds with interest were sent to customers on October 15, 1987.

Copies of this filing have been served upon all parties affected by this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28409 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

## [Docket No. C188-103-000]

**Southern Natural Gas Co.; Application for Abandonment of Sales and Purchase Obligations**

December 8, 1987.

Take notice that on November 10, 1987, as supplemented by letters dated November 20 and 25, 1987, Southern Natural Gas Company (Southern), 1900 Fifth Avenue North, Birmingham, Alabama 32504, filed an application pursuant to section 7(b) of the Natural Gas Act and §§ 2.77 and 157.30 of the Commission's Regulations for expedited retroactive abandonment of sales and purchases under three expired gas purchase contracts dated September 1, 1976, between Southern and Pogo Producing Company (Pogo) certificated in Docket No. C184-126-000, all as more fully set forth in the application on file with the Commission and open to public inspection. Southern requests that the abandonment be made retroactive to the time of contract expiration to avert potential liability for take-or-pay and that this application be considered on an expedited basis pursuant to the procedures set forth in § 2.77 of the Commission's Regulations.

The location, rate schedule, applicable price category and estimated deliverability for the expired contracts are as follows:

a. West Cameron Block 586, Offshore Louisiana; Rate Schedule No. 67; \$2.677 (NGPA § 104, post-1974); 60 Mcf/d.

b. Eugene Island Block 256, Offshore Louisiana; Rate Schedule No. 75; \$4.69 (NGPA § 102(d)); 3,424 Mcf/d.

c. Vermilion Block 228, Offshore Louisiana; Rate Schedule No. 70; \$2.677 (NGPA § 104, post-1974); 0 Mcf/d.

Southern states that the September 1, 1976, contracts had stated terms of five years from the date of initial deliveries. Southern states that the contracts covering sales from West Cameron Block 586 and Vermilion Block 228 expired in 1982 and the contract covering Eugene Island Block 256 expired in 1984. Southern states that the production consists of a combination of NGPA section 104 post-1974 and section 102(d) gas and has a weighted average price of approximately \$3.10/MMBtu. Southern states that its current system-



wide weighted average cost of gas from field sources is approximately \$2.52/MMBtu.

Southern states that Pogo has refused to seek abandonment of these contracts. Southern states further that despite the contracts' expiration, Pogo has continued to demand performance from Southern under a unique termination of deliveries clause that provides that once the contracts have expired, Pogo has no contractual obligations to Southern, but shall be entitled to enforce each and every provision of the contracts against Southern until Pogo shall become entitled in accordance with all applicable laws, rules, regulations and orders to cease once and for all making deliveries to Southern.

Southern contends that the contracts sought to be abandoned contain terms (such as an 85 percent annual take-or-pay requirement and a price provision that sets the rate at the Natural Gas Policy Act maximum ceiling price with no market out provision) that would not be tolerated in today's competitive natural gas markets, but that survive only because of Pogo's refusal to renegotiate the contracts or to seek abandonment. Southern asserts that the abandonment sought in this application is consistent with the Commission's recent orders encouraging abandonments as a means of serving the public convenience and necessity and with the D.C. Circuit's recent decisions requiring the Commission to take into account pipelines' take-or-pay problems when considering abandonments.

Southern further states that denial of abandonment of the expired contracts would result in (1) infusion of high volumes of high-priced gas under expired contracts into national gas markets; (2) unnecessary escalation of Southern's already considerable take-or-pay exposure and (3) abdication of the Commission's responsibilities over section 7 certificates in favor of a party who seeks, in a period of transition toward deregulation, to manipulate the regulatory process into a shield against market-based competition.

Southern states that the Commission recently granted permanent abandonment to a purchaser filing on behalf of a producer who was relying on an identical termination of deliveries clause as the one at issue here to demand continued performance of a contract whose term had expired. *Mississippi River Transmission Corp., et al.*, 39 FERC ¶ 61,113 (1987). Southern states that in that case, Sea Robin Pipeline Company was successful in obtaining abandonment of contracts it had executed with Pennzoil Producing Company and Pogo that contained the

same unique termination of deliveries clause described herein. Southern states that in that order the Commission found that the stated terms of the contracts had expired and thus that 'the continuation of service obligations, whether by sellers or purchasers, beyond the term of these contracts prevents market forces from operating to the extent envisioned under the NGPA, and also frustrates the parties' agreement.'

Southern also states that appropriate equitable circumstances warranting retroactive abandonment back to the dates of contract expiration are present here. As a result of the termination of deliveries clause of the expired contracts with Pogo, Southern states it has incurred, and continues to incur, take-or-pay exposure to Pogo for gas never taken under these contracts. Southern estimates it has accrued over \$4 million in potential take-or-pay liability under these contracts subsequent to their expiration. Because of contract expiration, Southern states there are no make-up rights, so any take-or-pay payments to Pogo would be a pure windfall.

Since Southern alleges that Pogo is subject to substantially reduced takes without payment and has requested that its application be considered on an expedited basis, all as more fully described in the application which is on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application should, on or before 15 days after the date of publication of this notice in the *Federal Register*, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28410 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-7-000]

### Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 4, 1987.

Take notice that Southern Natural Gas Company (Southern) on November 30, 1987, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, with a proposed effective date of January 1, 1988:

Sixth Revised Volume No. 1

Seventy-Sixth Revised Sheet No. 4A

Sixth Revised Sheet No. 4B

Original Volume No. 2

Fourth Revised Sheet No. 785

Fourth Revised Sheet No. 865

Southern states that these revised tariff sheets reflect a decrease in the GRI surcharge to 1.15¢ per Mcf in accordance with the Commission's Opinion No. 283.

Southern states that it has also tendered for filing revised sheets from its Rate Schedules X-79 through X-208 to reflect the imposition of the ACA charge under such rate schedules effective October 1, 1987.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28353 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-12-002]

### Superior Offshore Pipeline Co.; Filing

December 4, 1987.

Take notice that on November 24, 1987, Superior Offshore Pipeline Company, (Sopco) tendered for filing First Replacement Revised Sheet No. 40 to its FERC Gas Tariff, Original Volume



No. 1, to become effective November 8, 1987. Sopco states that this sheet is filed in compliance with the October 29, 1987 letter order in Docket No. RP88-12-000 and that it contains Sopco's intent not to recover any annual charges recorded in FERC Account No. 928 in an NGA Section 4 rate case.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 87-28354 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-9-000]

**Tennessee Gas Pipeline Co., a Division of Teneco Inc.; Proposed Rate Change**

December 4, 1987.

Take notice that on November 30, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing certain tariff sheets to its FERC Gas Tariff to be effective January 1, 1988.

Tennessee states that the tariff sheets reflect (1) various PGA rate adjustments pursuant to Sections 2, 3, and 5 of Article XXIII of the General Terms and Conditions of Tennessee's Tariff; (2) a new GRI adjustment of 1.47 cents per dkt; (3) amortization of retroactive production-related costs pursuant to the settlement agreement approved by the Commission's Order on June 14, 1985 in Docket No. CP84-441, *et al.*; (4) recovery of retroactive payment of producer compressor fuel costs pursuant to Article XXIX of the General Terms and Conditions; (5) elimination of all Incremental Pricing provisions from the tariff pursuant to Order No. 478; (6) revisions to tariff sheets necessitated by the addition of Original Sheet No. 22A; (7) an updated Table of Contents; and (8) adjustments to transportation rate schedules for changes in the cost of gas for fuel and losses pursuant to Section 5

of Article XXIII of the General Terms and Conditions.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 87-28355 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-045]

**Texas Eastern Transmission Corp.; Tariff Filing**

December 4, 1987.

Take notice that on November 25, 1987, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing the following sheets to its FERC Gas Tariff:

**Fifth Revised Volume No. 1**

Original Sheet No. 121  
Original Sheet No. 311  
Original Sheet No. 467  
Original Sheet No. 473  
Original Sheet No. 618  
Original Sheet No. 630

**Fourth Revised Volume No. 1**

Revised Sixth Revised Sheet No. 122  
Revised Sixth Revised Sheet No. 123

Texas Eastern states that Sheet Nos. 122 and 123 were inadvertently omitted from Volume No. 3, Appendix G of its compliance filing which was made on November 16, 1987. The other tariff sheets are filed to replace certain tariff sheets that were included in Volume No. 2, Appendix E of the compliance filing, in order to correct typographical errors and omissions on those tariff sheets.

Texas Eastern states that a copy of the filing has been served upon each party on the restricted service list in this proceeding and upon all other persons

required by the Commission's regulations to be served.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 87-28356 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-5-002]

**Transcontinental Gas Pipe Line Corp.; Tariff Filing**

December 4, 1987.

Take notice that on November 30, 1987, Transcontinental Gas Pipe Line Corporation ("Transco") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Substitute First Revised Sheet Nos. 187 through 196  
Substitute Original Sheet Nos. 196A and 196B  
Substitute First Revised Sheet Nos. 371 through 375  
Original Sheet Nos. 199G through 196R  
Original Sheet Nos. 380 through 399  
First Revised Sheet Nos. 201, 210, 211, 213, 219, 219A, and 259  
Original Sheet Nos. 260 through 299

Transco states that on October 1, 1987, it filed in Docket No. RP88-5-000, pursuant to Section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations thereunder, certain revised tariff sheets. Transco states that the purpose of such filing was to revise Transco's Rate Schedule FT and its corresponding form of Service Agreement, included in Second Revised Volume No. 1 of its FERC Gas Tariff. Transco states that on October 29, 1987, the Commission issued an order in Docket No. RP88-5-000 accepting for filing and suspending such tariff sheets, subject to conditions. Transco States that in addition to requiring certain revisions to Transco's Rate Schedule FT, the Commission directed Transco to file



tariff sheets containing terms and conditions governing interruptible transportation of gas pursuant to Part 284 of the Commission's regulations. Transco also states that the purpose of this filing is to comply with ordering paragraphs (B) and (C) of the October 29, 1987 order. The proposed effective date of the tariff sheets containing Rate Schedule IT, the corresponding Service Agreement and the revisions to Transco's General Terms and Conditions provisions in January 1, 1988, Rate Schedule FT and the Corresponding Service Agreement became effective November 1, 1987 pursuant to the October 29, 1987 Order in Docket No. RP88-5-000.

Transco states that copies of the filing have been served upon its customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28357 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP 88-37-000]

#### Transcontinental Gas Pipe Line Corp.; Tariff Filing

December 4, 1987.

Take notice that on December 2, 1987, Transcontinental Gas Pipe Line Corporation ("Transco") tendered for filing Second Revised Sheet Nos. 193 through 196, First Revised Sheet Nos. 196-A and 196-B, Original Sheet No. 196-C, and Second Revised Sheet No. 373 to its FERC Gas Tariff, Second Revised Volume No. 1.

The proposed effective date of the revised tariff sheets is January 1, 1988.

The purpose of the filing is to revise Transco's currently effective Rate Schedule FT to include provisions which require the shipper under such rate

schedule to provide Transco with certain information essential to implementation of the take-or-pay crediting mechanisms contained in the Commission's Order No. 500.

Transco states that copies of the filing have been served upon its customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28358 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-30-000]

#### Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 4, 1987.

Take notice that on December 1, 1987 Trunkline Gas Company (Trunkline) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

##### FERC Gas Tariff, Original Volume No. 1

Fifty-Ninth Revised Sheet No. 3-A  
Ninth Revised Sheet No. 3-A.1  
Tenth Revised Sheet No. 3-A.2  
Fifth Revised Sheet No. 3-A.3  
Fifth Revised Sheet No. 3-A.4

##### FERC Gas Tariff, Original Volume No. 2

Sixth Revised Sheet No. 3725  
Fifth Revised Sheet No. 3881  
Fifth Revised Sheet No. 3920  
Fifth Revised Sheet No. 3989  
Fourth Revised Sheet No. 4166  
Second Revised Sheet No. 4300  
Second Revised Sheet No. 4303

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 283 issued September 29, 1987 in Docket No. RP87-71-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost

adjustment to be effective January 1, 1988. This adjustment will permit the collection of 15.1 mills per Mcf (14.5 mills when adjusted to Trunkline's dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 87-28359 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-30-003]

#### Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 4, 1987.

Take notice that on November 30, 1987 Trunkline Gas Company (Trunkline) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventh Revised Sheet No. 21-E  
Eleventh Revised Sheet No. 21-F  
Third Revised Sheet No. 21-F.1  
Seventh Revised Sheet No. 21-G  
Fifth Revised Sheet No. 21-I  
Fifth Revised Sheet No. 21-J

The proposed effective date of these revised tariff sheets is November 1, 1987.

Trunkline states that these revised tariff sheets are being submitted by Trunkline at this time in compliance with the Commission's August 31, 1987 and October 29, 1987 Orders to revise Trunkline's method of calculating its Deferred Account No. 191 to include only the jurisdictional portion of deferred purchased gas costs in deferred account calculations.



Trunkline further states that Ordering Paragraph (B) of the Commission's Order Denying Rehearing dated October 29, 1987 required, *inter alia*, the revised tariff sheets to become effective on the date of issuance of the order. Trunkline respectfully requests waiver of this portion of the Commission's order to allow these tariff sheets to become effective November 1, 1987 to alleviate the administrative burden resulting from having the above revised tariff sheets become effective for the last three days of a billing month.

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28360 Filed 12-9-87; 8:45 am]

BILLING CODE 6717-01-M

#### Office of Civilian Radioactive Waste Management

#### Spent Nuclear Fuel From Civilian Nuclear Power Plants in the United States; Fees for Federal Interim Storage, Calendar Year 1988

**AGENCY:** Department of Energy.

**ACTION:** Notice of Fees for Federal Interim Storage of Spent Nuclear Fuel from Civilian Nuclear Power Plants in the United States for Calendar Year 1988.

**SUMMARY:** This notice updates the fees to be levied against users of Federal Interim Storage (FIS) services for spent nuclear fuel as required by section 136(a)(2) of the Nuclear Waste Policy Act of 1982, Pub. L. 97-425, 42 U.S.C. section 10101 et seq. (Act). The fees previously established for Calendar Year 1987 are hereby rescinded on the effective date of this notice. The fees,

shown in Table 1, have been updated to ensure full recovery of all costs incurred by the Department of Energy (Department) in providing these services. These fees are for calendar year 1988 and replace those in effect for calendar year 1987.

**EFFECTIVE DATE:** The updated fees will be effective on January 1, 1988, and will remain effective for a period of twelve months from the effective date.

**FOR FURTHER INFORMATION CONTACT:** Dwight E. Shelor, Office of Storage and Transportation Systems (RW-32), Office of Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2836.

**SUPPLEMENTARY INFORMATION:** The updated fees shown below in Table 1 were developed by the Department to comply with the requirement of section 136 of the Act which requires each user to pay its pro rata share of costs in order to ensure complete recovery of costs incurred by the Department in supplying FIS services.

TABLE 1.—FEES FOR FIS SERVICES FURNISHED BY THE DEPARTMENT OF ENERGY, DOLLARS PER KGU (a,b)

Spent Fuel Committed to FIS (MTU)	Initial fee	Final fee	Total fee
100 .....	370	270	640
300 .....	190	120	310
800 .....	135	70	205
1,500 .....	120	60	180
1,900 .....	115	55	170

(a) The cost of transportation of spent fuel is not included in the above fees. Each user's actual transportation costs will be billed directly after delivery of the fuel is completed.

(b) KGU—the weight of uranium contained in fresh fuel assemblies at the time of insertion into the reactor. One MTU is 1000 KGU.

The Department reexamined alternative methods for structuring fees for FIS services, as reported in 1987 Federal Interim Storage Fee Study: A Technical and Economic Analysis, (PNL-3221) September 1987. Based on this reexamination, the Department again concluded that the combined interests of the Department and the users would be best served, and costs would be most appropriately recovered, by a two-part fee payment consisting of an Initial Payment upon execution of a contract for FIS services followed by a Final Payment upon delivery of the spent fuel to the Department. In addition, each use will be invoiced by the Department for the actual costs of transportation of its spent fuel from the reactor site to the FIS facility.

The Initial Payment shall be made within 30 days after execution of the contract for FIS service; it is an advance payment covering the pro rata share of the preoperational costs including:

(1) the capital construction costs of the transfer facilities and storage area required to accommodate the initial storage service commitments, including design and construction costs;

(2) Costs of procuring storage modules;

(3) Development costs;

(4) Government administrative costs, including storage fund management;

(5) Impact aid payment made in accordance with section 136(e) of the Act; and

(6) Interest paid on any funds borrowed from the Treasury Department to conduct preliminary work.

The effective Initial Fee will be determined by the quantity of spent fuel committed to FIS by the first contract executed, or group of contracts executed simultaneously, by the Department in accordance with section 135(b) of the Act. Table 1 exhibits the appropriate fees for discrete quantities of contracted fuel, from 100 MTU to 1900 MTU. If the quantity of fuel covered by the first contracts is less than 100 MTU, the Initial Fee will be the Initial Fee shown in Table 1 for 100 MTU storage capacity. If the quantity of fuel covered by the first contracts exceeds 100 MTU and is not one of the discrete quantities shown, the Initial Fee will be recalculated by the Department for the exact quantity of spent fuel committed to storage under these first contracts. The Initial Fee so determined by the first contracts will then be charged to all subsequent contractors of FIS services until the Fee Schedule is next revised.

To ensure that the payments are equitable among the users of FIS services, the Department will annually update both the Initial and Final Fees to reflect changes in the estimated costs for providing FIS services as the amount of fuel under contract increases or as additional FIS facilities are activated. After all preoperational activities have been completed, the Department will determine the total costs incurred in connection with the preoperational activities (i.e., design, safety reviews, construction, storage module procurement, and associated activities) and will determine the difference between the Initial Payments made by each user and the subsequently revised Initial Payments that take into account the increased quantities of spent fuel being committed to FIS. The Department will then credit or debit the Final Payment of each user with the



difference between the amounts paid as Initial Payments and its then pro rata share of the revised total preoperational costs (net of its pro rata share of interest earned on advance payments made).

The Final Payment shall be billed to the user within 60 days after delivery of the spent fuel to the Department and shall be payable within 60 days thereafter. It will be calculated to cover the sum of the following:

(1) Any under- or over-estimation in the costs used to calculate the Initial Payment of the fee, as described above;

(2) The total estimated cost of operation and decommissioning of the FIS facilities (including Government administrative costs, storage fund management and impact aid).

In addition, the Department will bill each individual user for the actual costs the Department incurs in the transportation of that user's spent fuel charges, and security. Billing and payment for transportation will be on the same schedule as the Final Payment.

In addition to the Initial Payment and the Final Payment described above, the Department will make a final adjustment for each user after the decommissioning of the FIS facilities, or March 31, 2002, whichever is earlier. This adjustment will be based on a determination of the total costs incurred in design, construction, operation and decommissioning of the FIS system through December 31, 2001. The Department will make final adjustments to the extent that there is a difference between the total amounts paid by each user in Initial and Final Payments and the user's pro rata share of these total costs (net of its pro rata share of interest earned on advanced payments made). This adjustment may be either a payment to the Department or a refund to the user.

Any payments not made on a timely basis will be subject to interest charged at the Treasury Current Value of Funds Rate plus 6% from the due date to the date of actual payment.

In order to include the time value of money in the fee update calculation, the revenue/expenditure projections are based on the following assumptions concerning the schedule of constructing and operating FIS facilities. These assumptions reflect the changes in spent fuel storage requirements which occurred during 1987:

**Assumption 1:** Design and construction of FIS facilities would commence in 1988 and be completed so that storage operations could commence in mid 1991;

**Assumption 2:** The FIS facility would receive spent fuel during the three-year period between mid-1991 and mid-1994.

It would ship spent fuel to a Monitored Retrievable Storage facility or waste repository during the three-year period commencing at the beginning of 1998 and terminating at the end of 2000. One-third of the storage capacity of the FIS facility would be received each year during the receiving and one-third would be shipped each year during the shipping period;

**Assumption 3:** Decontamination and decommissioning of FIS facilities would be conducted in the year 2001.

In accordance with the constraints imposed by the Act, the Department plans to expend no funds in connection with the FIS program other than the minimal expenses for planning until clear evidence of a need exists. At that time, the Department will commence the design of the FIS facilities on the basis of the contractual commitments that then exist for FIS services. These facilities will have the capacity for only that amount of spent fuel which is committed to storage under the then-existing contracts.

The Department has again assumed that canistered consolidated spent fuel rods would be acceptable for storage at the FIS facilities. However, consolidation would not be a criterion for acceptance, nor would the disassembly and consolidation of spent fuel be included in the capabilities of the FIS facilities. Until the cost effects of storing consolidated fuel has been accurately determined, the Department will collect the same fee for storage of canistered consolidated spent fuel rods as for intact fuel assemblies. At that time, any difference in operational costs which may result from receipt and handling of consolidated fuel rods will be included in the annual recalculation of the fee, and a separate fee for consolidated fuel will be published. If the revised initial fees are lower than any previously collected for consolidated fuel, a credit will be assigned to the Final Payment for that consolidated fuel. Any savings in transportation costs that result from shipping consolidated rods would be realized immediately.

Further information as to the Department's FIS services and charges is available in the cited report, PNL-6322.

Issued in Washington, DC on December 4, 1987.

Charles E. Kay,

Acting Director, Office of Civilian  
Radioactive Waste Management.

[FR Doc. 87-28395 Filed 12-9-87; 8:45 am]

BILLING CODE 6450-01-M

## Western Area Power Administration

### Resource Coordination Program; Order Confirming and Approving an Extension of Power Rate Schedule RCP-1 on an Interim Basis

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of an extension of Rate Schedule RCP-1, schedule of rates for sales from the Resource Coordination Program.

**SUMMARY:** Notice is given of Rate Order No. WAPA-36 of the Under Secretary of the Department of Energy extending the Rate Schedule RCP-1 for firm capacity marketed by the Western Area Power Administration (Western) and energy being supplied under contracts with various utilities, known as the Resource Coordination Program.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark N. Silverman, Area Manager, Western Area Power Administration, Loveland Area Office, P.O. Box 3700, Loveland, CO 80539, (303) 490-7201.

**SUPPLEMENTARY INFORMATION:** By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and Amendment No. 1, effective May 20, 1986 (51 FR 19744, May 30, 1986), the Secretary of Energy delegated to Western's Administrator the authority to develop power and transmission rates; to the Under Secretary of the Department of Energy the authority to confirm, approve, and place in effect such rates on an interim basis; and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis, to remand, or disapprove rates developed by the Administrator under the delegation.

Pursuant to Delegation Order No. 0204-33, the FERC, in the order issued November 30, 1983, in docket No. EF83-5131-000, confirmed and approved Rate Schedule RCP-1 for the period from November 30, 1982, and ending November 30, 1987.

The purpose of Rate Order No. WAPA-36 is to extend the Rate Schedule RCP-1 on an interim basis.

Issued in Washington, DC, December 1, 1987.

Joseph F. Salgado,  
Under Secretary.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101, *et seq.*, the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372,



*et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), for the Bureau of Reclamation were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and Amendment No. 1, effective May 30, 1986 (51 FR 19744, May 30, 1986), the Secretary of Energy delegated to the Western Area Power Administration's (Western) Administrator the authority to develop power and transmission rates; to the Under Secretary of the DOE (Under Secretary) the authority to confirm, approve, and place in effect such rates on an interim basis; and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis, to remand, or disapprove rates developed by the Administrator under the delegation. In accordance with the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR 903.23(a)), the Under Secretary has authority to extend existing rates on an interim basis. This rate order is issued pursuant to the delegation to the Under Secretary.

#### Background

Pursuant to Delegation Order No. 0204-33, the FERC, in the order issued November 23, 1983, Docket No. EF83-5131-000, confirmed and approved Rate Schedule RCP-1 for firm capacity marketed by Western and energy being supplied under contracts with various utilities, known as the Resource Coordination Program (RCP). The rate was approved for the period from November 30, 1982, and ending November 29, 1987. Western is now proposing to extend the rate. A copy of the Rate Schedule RCP-1 currently in effect is attached.

The RCP is an arrangement to combine Western's excess capacity with surplus nonfirm energy to produce firm capacity with energy. The firm capacity with energy sold through RCP is sold at prices which were initially based on split-savings rates set halfway between each purchaser's avoided costs and the RCP's costs. In subsequent months, when the RCP costs of firm capacity with energy increase or decrease, the purchaser's base price increases or decreases by an identical amount. Seasonal or monthly firm capacity with energy sold through the RCP is sold at prices based on split-savings rates developed pursuant to this rate schedule. The purchaser's initial

avoided costs were the costs of the same category of firm capacity with energy or nonfirm energy that the purchaser would otherwise have generated itself or purchased from another source. RCP costs associated with nonfirm energy are the thermal energy generation costs. The RCP costs associated with the firm capacity with energy include the Pick-Sloan Missouri Basin Program-Western Division capacity charge in Rate Schedule P-SWD-F2, or any superseding rate schedule as of its effective date.

#### Discussion

The purpose of the extension of the wholesale power rate is to retain the current rate in effect.

The power service for which the rate will be applicable is seasonal or monthly firm capacity with energy from the Resource Coordination Program.

#### Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective November 30, 1987, an extension of the existing Rate Schedule RCP-1.

Issued in Washington, DC, December 1, 1987.

Joseph F. Salgado,  
Under Secretary.

#### Schedule of Rates for Sales From the Resource Coordination Program— Loveland Area Office

Effective: November 30, 1982.

Available: Within and adjacent to the areas served by the Western Division of the Pick-Sloan Missouri Basin Program and the Fryingpan-Arkansas Project.

Applicable: To wholesale power customers purchasing such service.

Character and Conditions of Service: Electric service supplied hereunder will be three-phase, alternating current, at a nominal frequency of 60 hertz (cycles per second).

Monthly Rate:

Firm Capacity With Energy: Initially, a base price will be calculated at one-half the sum of the purchaser's avoided costs and the Resource Coordination Program (RCP) costs. The purchaser's costs are the costs for firm capacity with energy that the purchaser would, but for purchases from the RCP, generate itself or purchase from another source. The RCP costs are the sum of the Federal capacity costs set forth in applicable rate schedules and energy generation costs.

In subsequent months, when the RCP costs of firm capacity with energy

increase or decrease, the purchaser's base price will increase or decrease by an identical amount.

[FR Doc. 87-28308 Filed 12-9-87; 8:45 am]

BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-3300-4]

#### Standard Operating Procedures for the U.S. Environmental Protection Agency's Science Advisory Board

To ensure the quality of technical analyses used in its decision making process, EPA has expanded its use of various formal and informal methods of peer review. The Science Advisory Board (SAB), established by the Congress through the passage of the Environmental Research and Development, Demonstration Act Amendments (ERDDAA) of 1978, is the principal independent advisory body used by the Administrator to formally obtain advice on the scientific aspects of a large number of important public health and environmental issues.

The Agency's referral of studies and assessments to the SAB for peer review preceded, but is consistent with, the recommendations of the National Academy of Sciences in its report on risk assessment in the Federal government.<sup>1</sup> A major recommendation of this report was for regulatory agencies to create independent peer review panels to review scientific studies that form the basis for major agency regulatory actions.

The Congress has required specific SAB review of such issues as the scientific bases of National Ambient Air Quality Standards, National Emission Standards for Hazardous Air Pollutants, and National Primary Drinking Water Standards. Section 8(e) of ERDDAA also mandates that the Agency make available for SAB review "any proposed criteria document, standard, limitation or regulation."

In light of the growing importance of the SAB to EPA's regulatory and research programs, the Agency has decided to formalize some of the procedures governing the selection of SAB members and the operations of the Board. In the past, the Agency has been extremely fortunate in having leaders of the scientific community serve on the SAB and will seek to continue this high

<sup>1</sup> National Research Council, "Risk Assessment in the Federal Government: Managing the Process," (National Academy Press, Washington, DC, 1983).



level of expertise on the Board through a more formal selection process.

While this notice makes no significant changes in the SAB's procedures for reviewing studies and providing advice to the Agency, it is important for the public to know what those procedures are. Other aspects of the SAB's operations, including its objectives, responsibilities, and composition are set forth in its Charter (which is attached as Annex A.) The charter of a Federal advisory committee must be renewed every two years.

#### Procedures Governing the Selection of SAB Members

Members of the SAB are selected by the Administrator and Deputy Administrator. Members are appointed for staggered terms of one to four years, which may be extended at the end of the term for the same range of time. The SAB has solicited nominations for membership from the general public in the past.<sup>2</sup> To continue ensuring the highest caliber participant on the SAB, EPA is announcing today a more formal process to solicit nominations of qualified scientists, engineers, or other disciplines as appropriate for review of the technical issues addressed by the Board. Such nominations will be solicited from:

- Federal research agencies such as the National Institutes of Health, the National Center for Health Statistics, and the National Science Foundation.
- The Presidents of the National Academy of Sciences, National Academy of Engineering and the Institute of Medicine.
- Professional scientific societies.
- Current or former SAB members.
- The public (including the private sector and public interest groups).
- EPA staff.

EPA will solicit such nominations by Federal Register notice as frequently as needed, but no less than every other year. To achieve balanced points of view among various schools of scientific thought, individuals will be appointed to the Board on the basis of their expertise and not their organizational affiliation or constituency. In announcing a solicitation, EPA will also identify particular scientific disciplines where expertise is needed. Members of the Board will be selected from among the nominated individuals. The Agency will publish in the Federal Register, on an annual basis, the current roster of SAB members. Members of the public are encouraged to submit nominees for Board membership at any time and need

not await a formal solicitation from EPA.

SAB members appointed by the Administrator or Deputy Administrator serve on various standing committee, subcommittees or ad hoc panels, or serve as members-at-large. In addition, the Board uses consultants with more specialized expertise on as-needed basis. Such consultants, who must meet the same standards of scientific expertise as members, do not vote on formal matters before the Board.

#### Conflict of Interest

Each SAB member or consultant is required to exercise judgment prior to any meeting as to whether a potential conflict of interest might exist due to his or her occupational affiliation, professional or research activity or financial interest on a particular matter before the Board. If there is a potential conflict of interest, the member or consultant must excuse himself/herself from the deliberations and/or votes of committees or subcommittees of the Board with respect to that matter.

SAB members and consultants currently complete an annual Confidential Statement of Employment and Financial Interests (Form 3120-1) beginning at the time of their initial appointment. Those compensated at or above the GS-16 rate, and who work more than 60 days per fiscal year, must conform to the financial disclosure provisions of the 1978 Ethics in Government Act. In addition, the SAB is currently in the process of preparing specific conflict of interest guidelines for its members and consultants. These guidelines, when completed, will be published in the Federal Register.

#### The SAB Review Process

The advisory process employed by the SAB will vary depending on the nature of the technical issues undergoing review, but certain generalizations concerning the review process can be stated. Most technical issues and scientific data evaluated by the Board are described in technical support documents prepared internally by EPA or by external contractors hired by EPA program offices in developing regulations, standards, guidance or policy statements. The SAB also evaluates a considerable number of individual programs within the Office of Research and Development. The Administrator has previously instructed program and research offices to seek advice from the SAB as early as possible in the decision making process and, generally before the proposal in the Federal Register of a regulation or standard, or before the final issuance of

criteria, technical support or guidance documents.<sup>3</sup>

In general, the SAB review process involves the following steps:

1. At the direction of the Administrator or Deputy Administrator, each or research office nominates scientific issues of importance to EPA that are subsequently submitted to the SAB Executive Committee for approval to authorize a SAB review. These issues are in addition to those that are legally required. The SAB can also initiate written requests to the Administrator to review individual issues. Based on consultations between the Executive Committee and senior EPA program and research officials, the Committee assigns priorities for the SAB. These priorities are subject to adjustment by the Executive Committee of the SAB in consultation with the Agency during the year.

2. The issues identified in step 1 are referred by the Executive Committee to an appropriate existing SAB committee for review, or the Executive Committee, as the need arises, establishes an appropriate subcommittee to conduct the review.

3. Additional expertise is recruited, if needed. A schedule for the review is established.

4. Agency documents and studies by outside contractors are transmitted to the SAB committee. Preliminary briefings or site visits are conducted if needed. At this stage of the advisory process, the Administrator has directed that program or research offices prepare an "issues paper" which synthesizes the relevant scientific data, states the EPA position based on such data and defines the specific issues to be addressed by the SAB.

5. EPA documents are formally reviewed in meetings open to the public. While some meetings may be closed in accordance with specific provisions of the Government in the Sunshine Act (5 USC 552b) (Section 10(d) of the Federal Advisory Committee Act), such action is only taken for compelling reasons. In addition, public comments of a scientific nature are accepted by the SAB. Following discussion within the review committee and between the committee and EPA staff and members of the public, the committee prepared a statement of its major conclusions and recommendations.

6. Based upon EPA and SAB discussions, EPA may prepare an

<sup>3</sup> Memorandum from EPA Administrator Lee M. Thomas to Assistant Administrators and Office Directors, "Improving the Agency's Use of the Science Advisory Board," June 25, 1985.

<sup>2</sup> 2. 49 Federal Register, 33169, August 21, 1984.



additional draft of its technical documents and may request another cycle of scientific review by the committee. If this does not occur, the committee's final report is transmitted to the Executive Committee for approval.

7. The Executive Committee reviews the report and, if approved, transmits it to the Administrator. The SAB report becomes a public document which is available for public inspection and copying.

8. The director of the relevant program or research office or the Administrator formally responds in writing to SAB advice, noting areas where the advice will be accepted or not accepted, and the reasons for such action.

#### Timeliness of SAB Review

To avoid delaying important EPA decisions, the scientific review process must, to the extent feasible, be conducted in an expeditious manner without sacrificing a high level of quality in both the preparation and review of technical documents. Consistent with this objective, the SAB establishes a schedule for the preparation of each report. Similarly, the Agency's response to the SAB's advice should be transmitted promptly to the SAB. In general, the SAB seeks to submit a written report to the Administrator within 90 days of the completion of a review. EPA seeks to respond in writing to SAB advice within the same time frame following the formal submittal of a final SAB report.

#### Submittal of Questions and Nominations

Members of the public that have questions pertaining to the above stated procedures or who wish to recommend nominees for SAB membership should write Dr. Terry F. Yosie, Director, Science Advisory Board, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Terry F. Yosie,  
Director, Science Advisory Board.  
December 3, 1987.

#### ANNEX A—Advisory Committee Charter

Organization and Functions—  
Committees, Boards, Panels, and  
Councils

##### Science Advisory Board

1. *Purpose and authority.* This Charter is reissued for the Science Advisory Board in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. (App. I) 9(c). The former Science Advisory Board, administratively established by the Administrator of EPA on January 11, 1974, was terminated in 1978 when the

Congress created the statutorily mandated Science Advisory Board by the Environmental Research, Development, and the Demonstration Authorization Act (ERDDAA) of 1978, 42 U.S.C. 4365. The Science Advisory Board charter was renewed October 31, 1979; November 19, 1981; November 3, 1983; and October 25, 1985.

2. *Scope of activity.* The activities of the Board will include analyzing problems, conducting meetings, presenting findings, making recommendations, and other activities necessary for the attainment of the Board's objectives. Ad hoc panels may be established to carry out these special activities in which consultants of special expertise may be used who are not members of the Board.

3. *Objectives and responsibilities.* The objective of the Board is to provide advice to EPA's Administrator on the scientific and technical aspects of environmental problems and issues. While the Board reports to the Administrator, it may also be requested to provide advice to the U.S. Senate Committee on Environment and Public Works or the U.S. House Committees on Science and Technology, Energy and Commerce, or Public Works and Transportation. The Board will review scientific issues, provide independent advice on EPA's programs, and perform special assignments as requested by Agency officials and as required by the Environmental Research, Development, and Demonstration Authorization Act of 1978 and the Clean Air Act Amendments of 1977. Responsibilities include the following:

- Reviewing and advising on the adequacy and scientific basis of any proposed criteria document, standard, limitation, or regulation under the Clean Air Act, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act of 1976, the Noise Control Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, or any other authority of the Administrator;

##### Advisory Committee Charter

- Reviewing and advising on the scientific and technical adequacy of Agency programs, guidelines, methodologies, protocols, and tests;
- Recommending, as appropriate, new or revised scientific criteria or standards for protection of human health and the environment;
- Through the Clean Air Scientific Advisory Committee, providing the

scientific review and advice required under the Clean Air Act, as amended;

- Reviewing and advising on new information needs and the quality of Agency plans and programs for research, and the five-year plan for environmental research, development and demonstration.

- Advising on the relative importance of various natural and anthropogenic pollution sources;
- As appropriate, consulting and coordinating with the Scientific Advisory Panel established by the Administrator pursuant to section 21(b) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended; and
- Consulting and coordinating with other Agency advisory groups, as requested by the Administrator.

4. *Composition.* The Board will consist of a body of independent scientists and engineers of sufficient size and diversity to provide the range of expertise required to assess the scientific and technical aspects of environmental issues. The Board will be organized into an executive committee and several specialized committees, all members of which shall be drawn from the Board.

The Board is authorized to constitute such specialized standing member committees and ad hoc investigative panels and subcommittees as the Administrator and the Board find necessary to carry out its responsibilities. The Administrator will review the need for such specialized committees and investigative panels at least once a year to decide which should be continued. These committees and panels will report through the Executive Committee.

The Deputy Administrator also shall appoint a Clean Air Scientific Advisory Committee of the Board to provide the scientific review and advice required by the Clean Air Act Amendments of 1977. This Committee, established by a separate charter, will be an integral part of the Board, and its members will also be members of the Science Advisory Board.

5. *Membership and meetings.* The Deputy Administrator appoints individuals to serve on the Science Advisory Board for staggered terms of one of four years and appoints from the membership a Chair of the Board. The Chair of the Board serves as Chair of the Executive Committee. Chairs of standing committees or ad hoc specialized subcommittees serve as members of the Executive Committee during the life of the specialized subcommittee. Each member of the Board shall be qualified by education, training, and experience



to evaluate scientific and technical information on matters referred to the Board. No member of the Board shall be a full-time employee of the Federal Government.

There will be approximately 60-75 meetings of the specialized committees per year. A full-time salaried officer or employee of the Agency will be present at all meetings and is authorized to adjourn any such meeting whenever this official determines it to be in the public interest.

Support for the Board's activities will be provided by the Office of the Administrator, EPA. The estimated annual operating cost will be approximately \$1,416,700 and 14.6 work years to carry out Federal permanent staff support duties and related assignments.

**6. Duration.** The Board shall be needed on a continuing basis. This charter will be effective until November 8, 1989, at which time the Board charter may be renewed for another two-year period.

**7. Supersession.** The former charter for the Science Advisory Board signed by the Administrator on October 2, 1985, is hereby superseded.

Approval Date: November 2, 1987.

A. James Barnes,  
Deputy Administrator.

Dated Filed with Congress: November 6, 1987.

[FR Doc. 87-28369 Filed 12-9-87; 8:45 am]

BILLING CODE 8560-50-M

[FRL-3299-6]

### Underground Injection Control Program; Radioactive Tracer Survey; Final Approval

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final approval and response to comments.

**SUMMARY:** On September 18, 1987, the Agency published a *Federal Register* notice (52 FR 35324) proposing to grant approval to the Radioactive Tracer Survey (RTS) as an alternative mechanical integrity test (MIT) to demonstrate that: (1) There is no significant leak in the casing, tubing, or packer, and (2) no significant fluid movement into an underground source of drinking water (USDW) through vertical channels adjacent to the injection well bore, where the underground source of drinking water directly overlies an injection zone separated only by an impermeable confining zone. This RTS was proposed for all classes of injection wells and

both Federal- and State-administered Underground Injection Control (UIC) programs could accept it as a means of meeting the requirements of 40 CFR 146.8(b) and, under the above conditions, (c). The Agency requested comments and data regarding the viability of this alternative, and stated that if significant comments were received a subsequent notice would be published. The purpose of this notice is to respond to the significant comments received, publish the changes made to the original notice, and grant final approval to the Radioactive Tracer Survey.

**DATES:** As a result of this action, the RTS is approved as an alternative mechanical integrity test under the conditions and limitations described herein and in FRL-3260-8 effective December 10, 1987.

**ADDRESS:** A copy of the comments and supporting documents will be available for review during normal business hours at the EPA, Room 1013C, East Tower, 401 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Bruce J. Kobelski, Office of Drinking Water (WH-550), EPA, 401 M Street SW., Washington, DC 20460; (202) 382-7275.

**SUPPLEMENTARY INFORMATION:** The Radiocative Tracer Survey was initially proposed to the Agency as an alternate method of mechanical integrity testing for injection wells that are not readily pressure-tested, such as slim-hole completions and casing injectors. The comment period for the initial RTS *Federal Register* approval notice closed on October 19, 1987, and the Agency received comments from a number of sources, primarily from industries using injection wells.

One of the conditions specified in the original notice was that tubing would have to be pulled when conducting the test in order to test the casing for leaks. Some commenters suggested unseating the packer would allow the tracer to flow back up the annulus and permit casing leaks to be detected. The Agency agrees that unseating the packer can be an acceptable procedure that would allow the casing to be tested, and we are deleting specific references to pulling tubing and packer. However, the UIC Director or EPA Region, as appropriate, will determine the necessity of pulling tubing or packer and the specific guidelines for conducting the test under the authority of Section IV, subsection B: Procedures for conducting the RTS. These same commenters also pointed out that the RTS is capable of detecting leaks in multiple tubing

strings, not only the string in which the tool is run. We concur and will delete the statement in the original *Federal Register* notice that indicates otherwise. Again, the procedure for leak detection in multiple strings should be addressed by the Director as specified in Section IV, subsection B.

Several commenters indicated that requiring that the RTS be run at the actual maximum operating pressure is too restrictive and that pressure may not be attainable due to limiting pump and reservoir conditions. The Agency will revise this limitation, but in order to ensure that the RTS effectively will assess mechanical integrity, the Director retains the discretion to set an operating injection pressure.

Two commenters indicated that the RTS is capable of verifying the integrity of cement at the casing shoe and around the injection perforations. The Agency agrees that the RTS can assess the integrity of cement in these areas. Therefore, we are changing references of casing shoe to encompass the casing shoe area.

One commenter sought a definition of a competent log analyst and instead of defining that term, EPA is requiring that the material and results submitted from an RTS be self-explanatory.

A few commenters suggested that the EPA should allow the velocity shot method or velocity shot/timed-run combinations to be used for mechanical integrity testing. As previously indicated, the Agency is excluding the velocity shot method until we have fully assessed its use for certain injection conditions.

Some commenters argued that the demonstration of no significant fluid movement into or between USDWs through vertical channels adjacent to the injection well bore, particularly as applied to non-injected fluid movement, was an inappropriate extension of requirements for mechanical integrity testing. The Agency defined mechanical integrity to include a demonstration of no interformational fluid movement in the original promulgation of the UIC regulations on June 24, 1980 (45 FR 42500). Therefore, we are not expanding the definition of mechanical integrity and as the RTS cannot fully demonstrate interformational flow, except under the conditions we have indicated, its use for the demonstration of § 146.8(c) is denied. Finally, other concerns by commenters regarding detector spacing, type of detector, radioactive materials used in logging, the preparation of the tracer slug, and other detailed logging procedures should be addressed as part of the specific logging procedures and



guidelines developed for its use. The language in Section IV, subsection B: Procedures for conducting the RTS will be reworded to clarify this matter. The revisions to the September 18, 1987, Radioactive Tracer Survey Notice, FRL-3260-8, are indicated below.

Date: December 2, 1987.

Michael B. Cook,

Director, Office of Drinking Water.

The following revisions are made in FRL-3260-8, Underground Injection Control Program; Radioactive Tracer Survey Approval published in the Federal Register on September 18, 1987 (52 FR 35324).

1. On page 35325, third column, III. Description of the Test, A. Leak Detection, the text is revised to read as follows:

"The tracer survey is based on the principle that when a controlled slug of a short-lived radioactive material is released into the injection stream, it can be detected as it progresses down the well. As the radioactive material moves downward, it will exit the casing or tubing where the leak exists. The tracer survey will detect this leak."

2. On page 35325, third column, III. Description of the Test, C. Radioactive Tracer Survey Methods, line 40 is revised to read as follows:

"The velocity shot method is useful for detailing specific portions of the wellbore; however, it is not currently approved for assuring that the entire length of the well bore is free from fluid leaks."

3. On page 353326, first column, Section IV, subsection A: Limitations on the Use of the RTS, (1), the reference to "casing shoe" is changed to "casing shoe area."

4. On page 353326, first column, Section IV, subsection A: Limitations on the Use of the RTS; condition (3) is deleted.

5. On page 353326, first column, IV. Special Conditions, A. Limitations on the Use of the RTS, condition (6) is revised to read as:

"The test must be performed at an operating pressure, determined by the Director, or EPA Region that will ensure that the flow velocity will enable the tracer slug to be adequately detected."

6. On page 353326, first column, IV. Special Conditions, B. Procedures for Conducting the RTS, the test is revised as:

"Specific written procedures or guidelines for the applicability and running of this test must be approved by the Director or by the EPA Region, as applicable."

Procedures or guidelines should include, but are not limited to, technical

aspects of conducting the test such as determination of logging speed, tracer slug preparation, tracer material, well configuration, tool centralization, detector spacing, operational safety, and any other standards as determined by the Director."

[FR Doc. 87-28217 Filed 12-9-87; 8:45 am]

BILLING CODE 6560-50-M

#### [FRL-3300-5; Public Notice No. 87 FL 115]

#### Extension of Comment Period and Period for Regional Action on Proposed 404(c) Determination To Prohibit, Deny, or Restrict the Specification or Use of Three East Everglades Areas as Disposal Sites

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Notice of Extension of Public Hearing Comment Period and Period for Regional Action on Proposed 404(c) Determination.

**SUMMARY:** On November 18, 1987, a public hearing was held in Homestead, Florida, pursuant to Public Notice No. 87FL115 issued October 18, 1987, (52 FR 38519). This hearing concerned a Proposed Determination by EPA Region IV published in that Notice to prohibit, deny, or restrict specification of three East Everglades wetlands properties described therein as disposal sites for dredged or fill materials under authority of section 404(c) of the Clean Water Act [33 U.S.C. 1344(c)]. At the request of the attorney representing the Henry Rem Estate, the owner of one of these wetlands properties, the post-hearing comment period provided for in 40 CFR 231.4(f) is being extended until the close of business, December 21, 1987. Because of this extension and in order to allow full consideration of the hearing transcript, delivery of which has been delayed, the time period provided in 40 CFR 231.5(a) for Regional action on the Proposed Determination is being extended until close of business, January 22, 1987. These time extensions are made under authority of 40 CFR 231.8.

**FOR FURTHER INFORMATION CONTACT:** E. T. Heinen, Chief, Marine and Estuarine Branch, Water Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347-2126.

Dated: December 3, 1987.

Joseph Franzmathes,  
Acting Regional Administrator.

[FR Doc. 87-28368 Filed 12-9-87; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**Type:** Extension of 3067-0039.

**Title:** Recertification for Continued Assistance.

**Abstract:** This form is required to evaluate and document information for continued assistance. This documentation supports decisions regarding continuation or termination of assistance.

**Type of Respondents:** Individuals or households.

**Number of Respondents:** 1,000.

**Burden Hours:** 167.

**Frequency of Recordkeeping or Reporting:** On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C. Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: December 7, 1987.

Wesley C. Moore,  
Director, Office of Administrative Support.  
[FR Doc. 87-28309 Filed 12-9-87; 8:45 am]

BILLING CODE 6718-21-M

#### GENERAL SERVICES ADMINISTRATION

#### Performance Review Board; Membership

**AGENCY:** General Services Administration.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the Performance Review Board.

**FOR FURTHER INFORMATION CONTACT:** Gregory Knott, Deputy Director of Personnel, General Services Administration, 18th and F Streets, NW., Washington, DC 20405, (202) 566-0398.

**SUPPLEMENTARY INFORMATION:** Section 4313(c) (1) through (5) of Title 5, U.S.C.



requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The members of the Performance Review Board are:

1. Paul T. Weiss, Associate Administrator for Administration.
2. John E. Alderson, Deputy Associate Administrator for Operations.
3. Bernard J. Bennington, Deputy Commissioner for Telecommunications.
4. George P. Cordes, Regional Administrator, Region 3 (Philadelphia).
5. Roger D. Daniero, Deputy Commissioner, Federal Supply Service.
6. Richard M. Hadsell, Regional Administrator, National Capital Region.
7. Duncan L. Howard, Commissioner, Public Buildings Service.
8. Earl E. Jones, Commissioner, Federal Property Resources Service.
9. Patricia A. Szervo, Associate Administrator for Acquisition Policy.

Dated: December 3, 1987.

Gregory L. Knott,

Deputy Director of Personnel.

[FR Doc. 87-28281 Filed 12-9-87; 8:45 am]

BILLING CODE 8820-34-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for January 1988, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5,

U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	January 1988 meetings	Time	Location
Behavioral and Neurosciences-1—Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352.	Jan. 13-15 .....	8:00	Holiday Inn, Chevy Chase, MD.
Behavioral and Neurosciences-2—Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352.	Jan. 25 .....	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Biomedical Sciences-2—Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	Jan. 25-26 .....	8:30	Holiday Inn, Chevy Chase, MD.
Biomedical Sciences-3—Mr. Gene Headley, Rm. A25, Tel. 301-496-7287.	Jan. 11-12 .....	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Biomedical Sciences-4—Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	Jan. 19-20 .....	8:30	Crowne Plaza, Rockville, MD.
Biomedical Sciences-5—Dr. Bert Wilson, Rm. A25, Tel. 301-496-7600.	Jan. 20-23 .....	8:30	Hyatt Regency, Bethesda, MD.
Biomedical Sciences-6—Dr. Hugh Stamper, Rm. A10, Tel. 301-496-3117.	Jan. 27-29 .....	8:30	Ramada Inn, Bethesda, MD.
Biomedical Sciences-7—Dr. Daniel Eskinazi, Rm. A10, Tel. 301-496-1067.	Jan. 6-8 .....	8:30	Crowne Plaza, Rockville, MD.
Clinical Sciences-1—Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	Jan. 13-15 .....	8:30	Crowne Plaza, Rockville, MD.
Clinical Sciences-2—Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Jan. 25-27 .....	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Clinical Sciences-3—Dr. Nicholas Mazarella, Rm. A27, Tel. 301-496-1069.	Jan. 18-19 .....	8:30	Crowne Plaza, Rockville, MD.
Clinical Sciences-4—Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Jan. 12-13 .....	8:30	Room 7, Bldg. 31C, Bethesda, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393-13.396, 13.837-13.844, 13.846-13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 1, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-28311 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M

#### Division of Research Resources; National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), Division of Research Resources (DRR), on February 4-5, 1988, at the National Institutes of Health,

Conference Room 10, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on February 4 from 9 a.m. until recess and from 8:30 a.m. until approximately 11 a.m. on February 5 during which time there will be discussions on administrative matters such as previous



meeting minutes; the Report of the Director, DRR; and review of budget and legislative updates. There will be presentation on the Biomedical Research Support Program led by Dr. Marjorie A. Tingle, which will include several guest speakers. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 5 from approximately 11 a.m. until adjournment for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, DRR, Building 31, Room 5B10, National Institutes of Health, Bethesda, Maryland 20892, 301/496-5545, will provide a summary of the meeting and a roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Building 31, Room 5B03, National Institutes of Health, Bethesda, Maryland 20892, 301/496-6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Programs Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; 13.375, Minority Biomedical Research Support; 13.389, Research Centers in Minority Institutions, National Institutes of Health.)

Dated: December 1, 1987.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 87-28312 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Allergy and Infectious Diseases; National Advisory Allergy and Infectious Diseases Council, Acquired Immunodeficiency Syndrome Subcommittee, Allergy and Immunology Subcommittee, Microbiology and Infectious Diseases Subcommittee; Meetings**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and

Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on January 21-22, 1988, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on January 21 from approximately 9 a.m. to 9:15 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 4:30 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussion will cover highlights of the Acquired Immunodeficiency Syndrome Program presented by the Acting Director of the AIDS Program, NIAID.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately four hours for review, discussion, and evaluation of individual grant applications. It is anticipated that this will occur from 9:15 a.m. until approximately 12:30 p.m. on January 21. The meeting of the full Council will be closed from approximately 8:30 a.m. until adjournment on January 22 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301-496-7291), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological

Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: December 1, 1987

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 87-28313 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Dental Research; NIDR Special Grants Review Committee, Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, February 2-3, 1988, in the Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815. The Committee will meet in the Chase Room. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on February 2 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 2 from 9:30 a.m. to recess and on February 3 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121-Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13-122-Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845-Dental Research Institutes; National Institutes of Health.)

Dated: December 1, 1987.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 87-28314 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M



**National Institute of Dental Research; National Advisory Dental Research Council; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, to be held January 25-26, 1988, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to recess on January 25 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on January 26 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Preston A. Littleton, Executive Secretary, National Advisory Dental Research Council, and Deputy Director, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland 20892, (telephone 301-496-9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121-Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122-Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845-Dental Research Institute; National Institutes of Health.)

Dated: December 1, 1987.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 87-28315 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M

**National Eye Institute; National Advisory Eye Council; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, January 26, 1988, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland

This meeting will be open to the public from 8:30 a.m. until approximately 12 noon on Tuesday, January 26. Following opening remarks by the Director, National Eye Institute, there will be presentations by the staff of the Institute concerning Institute programs and various research assistance mechanisms. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 12 noon until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Vision Research Program Planning Subcommittee will meet on January 25, 1988, at the Ramada Inn (meeting room to be assigned at a later date), 8400 Wisconsin Avenue, Bethesda, Maryland 20814. This meeting will begin at 7:00 p.m. and end at approximately 9:00 p.m. and will be open to the public with seating limited to space available.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, Room 6A51, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5983, will provide summaries of meetings, rosters of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs, Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health.)

Dated: December 1, 1987.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 87-28316 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of General Medical Sciences; National Advisory General Medical Science Council; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institute of Health, on January 28 and 29,

1988, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on January 28 from 8:30 a.m. to 11:30 a.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 28 from 11:30 a.m. to recess, and on January 29 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: 301, 496-7301 will provide a summary of the meeting roster of council members. Dr. Elke Jordan, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 953, Bethesda, Maryland 20892, Telephone: 301, 496-7061 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13-821, Biophysics and Physiological Sciences; 13-859, Pharmacological Sciences; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-860, Minority Access to Research Careers [MARCI].)

Dated: December 1, 1987.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 87-28317 Filed 12-9-87; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Neurological and Communicative Disorders and Stroke Notice of Meetings**

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of Neurological and Communicative Disorders and Stroke.

These meetings will open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice.



Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

**Name of Committee:** National Advisory Neurological and Communicative Disorders and Stroke Council and Its Planning Subcommittee.

**Dates:** January 20, 1988 (Planning Subcommittee).

**Place:** National Institutes of Health, Building 31, Conference Room 8A49, 9000 Rockville Pike, Bethesda, Maryland 20892.

**Open:** 1 p.m.—3 p.m.

**Agenda:** To discuss program planning, program accomplishments and special reports.

**Closed:** 3 p.m.—5 p.m.

**Closure Reason:** For review of grant applications.

**Dates:** January 21–22, 1988 (Council).

**Place:** National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

**Open:** January 21, 9 a.m.—1 p.m.

**Agenda:** To discuss program planning, program accomplishments and special reports.

**Closed:**

January 21, 1 p.m.—recess

January 22, 8:30 a.m.—adjournment

**Closure Reason:** For review of grant applications.

**Executive Secretary:** John C. Dalton, Ph.D., Associate Director for Extramural Activities, NINCDS, National Institutes of Health, Bethesda, Maryland 20892. Telephone: 301/496-9248.

**Name of Committee:** Neurological Disorders Program Project Review A Committee.

**Dates:** February 14–16, 1988.

**Place:** Holiday Inn at the Embarcadero, 1355 North Harbor Drive at Ash Street, San Diego, California 92101.

**Open:** February 14, 8:30 p.m.—9 p.m.

**Agenda:** To discuss program planning, program accomplishments and special reports.

**Closed:**

February 14, 9 p.m.—recess

February 15, 8 a.m.—recess

February 16, 7:30 a.m.—adjournment

**Closure Reason:** To review grant applications.

**Executive Secretary:** Dr. Herbert Yellin, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

**Name of Committee:** Neurological Disorders Program Project Review B Committee.

**Dates:** February 25–27, 1988

**Place:** Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

**Open:** February 25, 8:30 a.m.—9 a.m.

**Agenda:** To discuss program planning, program accomplishments and special reports.

**Closed:**

February 25, 9 a.m.—recess

February 26, 8 a.m.—recess

February 27, 8 a.m.—adjournment

**Closure Reason:** To review grant applications.

**Executive Secretary:** Dr. A. Beau White, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

**Name of Committee:** Communicative Disorders Review Committee.

**Dates:** March 10–11, 1988.

**Place:** Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

**Open:** March 10, 8:30 a.m.—9 a.m.

**Agenda:** To discuss program planning, program accomplishments and special reports.

**Closed:**

March 10, 9 a.m.—recess

March 11, 8 a.m.—adjournment

**Closure Reason:** To review grant applications.

**Executive Secretary:** Dr. Marilyn Semmes, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13-854, Biological Basis Research)

**Dated:** December 1, 1987.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 87-28318 Filed 12-9-87; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

November 25, 1987.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the

Pahrump Band of Paiutes, c/o Mr. Richard W. Arnold, P.O. Box 73, Pahrump, Nevada 89041,

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on November 9, 1987, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs' files.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 32-SIB, 18th and C Streets, NW., Washington, DC 20240, Phone: (202) 343-3568.

**W.P. Ragsdale,**

*Acting Assistance Secretary—Indian Affairs.*

[FR Doc. 87-28287 Filed 12-9-87; 8:45 am]

**BILLING CODE 4310-02-M**

#### Blackfeet Tribe of the Blackfeet Indian Reservation, MT; Ordinance Amending Laws Relating to the Use and Distribution of Liquor

November 27, 1987.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 9, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Resolution No 325-87 amending the Blackfeet Tribal Liquor Ordinance No. 73 was duly



adopted by the Blackfeet Tribal Business Council on June 17, 1987. The Resolution removes the requirements of Ordinance No. 73 that limit issuance, transfer, or renewal of new Class 3 off-premise retail beer and wine licenses in the area of Indian country under the jurisdiction of the Blackfeet Indian Tribe by amending the previous Resolution and Ordinance which were published in the *Federal Register* on March 10, 1986, 51 FR 9266. The ordinance reads as follows:

Frank Ryan,

Acting Assistant Secretary—Indian Affairs.

#### Resolution No. 325-87

Whereas: The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation, and

Whereas: The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education and resources of the Blackfeet Indian Reservation, and

Whereas: The Blackfeet Tribal Business Council by Resolution No. 283-85 adopted Ordinance Number 73, the Regulation and Control of Alcohol, which became effective on March 18, 1986, and

Whereas: It is deemed that economic development of the Blackfeet Reservation is in the best interests of the Blackfeet Nation and this requires that the development of businesses within the Blackfeet Indian Reservation be fostered and encouraged, and

Whereas: To encourage and foster the development of business within the Reservation it is necessary that a business of the type that would normally sell beer and wine for off-premise consumption be able to qualify for a license to do so when established within the Blackfeet Reservation, and

Whereas: After due consideration, the Blackfeet Tribal Business Council is desirous of removing the requirements of Ordinance Number 73 that limit the issuance, transfer or renewal of new Class 3 Off-Premise Retail Beer and Wine Licenses to enrolled members of the Blackfeet Indian Nation or business entities which are at least fifty-one percent (51%) owned and operated by an enrolled member of the Blackfeet Indian Nation, and

Whereas: The Blackfeet Tribal Business Council believes that such an amendment to Ordinance Number 73 represents the views, policies, and needs of the Blackfeet Nation in the areas of economic development within the Blackfeet Reservation, and in the area of liquor regulations.

Now therefore be it resolved: That Ordinance Number 73 is hereby amended to reflect that foregoing desires of the Blackfeet Tribal Business Council, as to Class 3, Off-Premise Retail Beer and Wine Licenses.

Be it further resolved: That Ordinance Number 73 is more specifically amended in each of the following parts and sections and sub-sections, with the language in [brackets] being deleted and the language in bold face to be added, as follows:

#### Change #1:

*Page of Ordinance:* Page 1, Part I, Section 1.0 Declaration of Public Policy—Subject Matters Regulation, Subsection (C)

*Change:* (C) It is further the policy of the Blackfeet Nation to effectuate the economic rights of members of the Blackfeet Nation, as guaranteed by Article VIII, Section 2, of the Blackfeet Constitution. The policy is implemented herein by limiting the issuance of new licenses in some cases to enrolled members of the Blackfeet Nation or business entities which are at least fifty-one percent (51%) owned by enrolled members of the Blackfeet Nation.

#### Change #2:

*Page of Ordinance:* Page 4, Part 3, License Administration, Section 1.0 License Classification, Subsection (B).

*Change:* (B) The issuance of new licenses in Class 1, [2, and 3] and 2 shall be limited to enrolled members of the Blackfeet Indian Nation or business entities which are at least fifty-one percent (51%) owned and operated by an enrolled member of the Blackfeet Indian Nation.

#### Change #3:

*Page of Ordinance:* Page 5, Part 3, License Administration, Section 4.0 Retail Beer and Wine License for Off-Premise Consumption Only—Discretionary Authority to Issue—Limited to Tribal Members Only or 51% Member Owned Businesses on New Licenses.

*Change:* (4.0) Retail Beer and Wine License for Off-Premise Consumption Only—Discretionary Authority to Issue [—Limited to Tribal Members Only or 61% Member Owned Businesses on New Licenses].

#### Change #4:

*Page of Ordinance:* Page 6, Part 3, License Administration, Section 4.0 Retail Beer and Wine License for Off-Premise Consumption Only—Discretionary Authority to Issue—Limited to Tribal Members Only or 51%

Member Owned Businesses on New Licenses, Subsection (C).

*Change:* [(C) Provided, however, that the issuance of new licenses pursuant to this section is limited to enrolled members of the Blackfeet Indian Nation or business entities which are at least 51% owned by enrolled members of the Blackfeet Nation.]

[Retail beer, or beer and wine, licenses for off-premises consumption only, which are held by persons not members of the Blackfeet Nation, or by entities which are not 51% owned by enrolled members of the Blackfeet Nation, and which were of issue prior to January 1, 1985, are not affected by the limitation in this sub-section. Said licenses shall be renewable and transferable subject to the limitations contained in this Ordinance].

#### Change #5:

*Page of Ordinance:* Page 6, Part 3, License Administration, Section 5.0 Beer License Transfers, Subsection (A) (1) and (2).

*Change:* (A)(1) transfer of a license for on-premise consumption which was issued after January 1, 1985, as a new license with tribal member preference, may be made only to another enrolled member of the Blackfeet Nation or a business entity which is 51% owned by an enrolled member of the Blackfeet Nation.

(A)(2) transfer of [a] any other beer retailers license [issued prior to January 1, 1985,] may be made to any qualified applicant [and will not be limited to tribal member preference].

#### Change #6:

*Page of Ordinance:* Page 8, Part 4, Licensing Criteria and Procedure, Section 1.0 License Privilege—Criteria for Decision on Application, Subsection (B) (1) and (8).

*Change:* (B)(1) in the case of the issuance of a new Class 1 or Class 2 license, that the applicant is an enrolled member of the Blackfeet Indian Nation, or if the applicant is a firm or corporation, that the applicant is at least 51% owned by an enrolled member of the Blackfeet Indian Nation. (B)(8) in the case of the transfer of a license originally issued as a new Class 1 or Class 2 license after January 1, 1985, that the applicant is an enrolled member of the Blackfeet Indian Nation, or if the applicant is a firm or corporation, that at least 51% of the firm or corporation is owned by enrolled members of the Blackfeet Indian Nation.

Be it further resolved: That this amendment to Ordinance Number 73, shall become effective upon approval by



the Secretary of the Interior as provided by the Constitution and By-laws for the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.

Attest:  
Marvin Weatherwax,  
Secretary.

The Blackfeet Tribe of the Blackfeet Indian Reservation.

Earl Old Person,  
Chairman.

#### Certification

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called, noticed and convened Special Session, assembled the 17th day of June 1987, with six (6) members present to constitute a quorum, and with a vote of six (6) members FOR and none (0) members OPPOSED.

Marvin Weatherwax,  
Secretary.

[FR Doc. 87-28288 Filed 12-9-87; 8:45 am]  
BILLING CODE 4310-01-M

#### Bureau of Land Management

[AK-0008-4213-15; F-19525-A]

#### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613, will be issued to Council Native Corporation for approximately 100 acres. The lands involved are in the vicinity of Council, Alaska, within Secs. 3, 4, 9, and 10, T. 7 S., R. 25 W., Kateel River Meridian.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the NOME NUGGET. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 11, 1988 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart

E, shall be deemed to have waived their rights.

Gary K. Seitz,  
Chief, Branch of Northwest Adjudication.  
[FR Doc. 87-28299 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-JA-M

[ID-040-4322-08]

#### Availability of the Rangeland Program Summary (RPS) update on the Ellis-Pahsimeroi Grazing Environmental Statement; Salmon District, ID

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Interior has prepared an update of the Rangeland Program Summary (RPS) on the Ellis-Pahsimeroi Environmental Statement.

The Rangeland Program Summary (RPS) summarizes the progress made toward implementation of the program set forth in the original RPS document and discusses the future management direction that will be taken by the Bureau of Land Management in this portion of the Salmon District. The RPS also summarizes the future rangeland monitoring and evaluation efforts that will be conducted.

Copies of the Rangeland Program Summary are available for review at the following location.

**FOR FURTHER INFORMATION CONTACT:**  
Robert H. Hale, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, telephone (208) 756-5400.

Dated: December 2, 1987.

Robert W. Heidemann,  
Associate District Manager.

[FR Doc. 87-28321 Filed 12-9-87; 8:45 am]  
BILLING CODE 4310-GG-M

[AZ-050-08-4830-02]

#### Arizona; Yuma District Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Yuma (Arizona) District Advisory Council Meeting and Field Tour.

**SUMMARY:** A meeting and field tour of the Yuma District Advisory Council will occur on Friday, January 8. Council members will meet briefly at the Bureau of Indian Affairs (BIA) Office Conference Room, located in Building 1 on Agency Road in Parker, Arizona, at 9 a.m. At approximately 9:15 a.m., the

Council will leave on a field tour of the Copperstone Gold Mine. At approximately 1:30 p.m., the Council will return to the BIA office and hold a regular meeting.

**DATE:** Friday, January 8, 1988.

#### FOR FURTHER INFORMATION CONTACT:

Douglas B. Stockdale, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365, 602-726-3600.

**SUPPLEMENTARY INFORMATION:** During the regular Council meeting, the Copperstone Gold Mine tour will be summarized, and District and Resource Area program updates will be discussed. Additional agenda topics will include SCORE 400 and Council-initiated business. The public is invited to attend the regular meeting. Written statements from the public may be filed for the Council's consideration. Statements must arrive at the Yuma District Office by January 5, 1988. Oral statements will also be accepted, but depending on the number of persons wishing to address the Council, a per-person time limit may be imposed.

Summary minutes of the District Advisory Council meeting will be maintained in the Yuma District Office and will be available for inspection and reproduction during regular business hours (7:45 a.m. through 4:30 p.m.) within 30 days of the meeting.

J. Darwin Snell,  
District Manager.

Date: December 4, 1987.

[FR Doc. 87-28306 Filed 12-9-87; 8:45 am]  
BILLING CODE 4310-32-M

[NV-010-08-4332-10 and NV-010-08-4333-12]

#### Off-Road Vehicle Designation Decisions; Nevada

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open or limited to off-road motorized vehicle use.

The 3,134,019 acre area affected by the designation is known as the Elko Resource Area located in the BLM's Elko District and encompassing lands in Elko, Eureka, and Lander Counties, Nevada. These designations are a result of a resource management decision made in the 1986 Elko Resource Management Plan and finalized in the Elko Record of Decision dated March 11, 1987. These designations are published



as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

#### A. Open Designation

Areas which are designated open comprise approximately 3,060,074 acres. Open designation was determined to be appropriate for these public lands because of the light off-road vehicle use which the area receives, and because of the high importance attached to such use by local residents.

#### B. Limited Designation

Nine areas, comprising 73,945 acres, have been designated as limited to designated roads and trails.

1. *South Fork Owyhee River SRMA* (3,500 acres). Motorized vehicle use is limited to designated routes to enhance the natural rim to rim canyon portion for non-motorized river recreation activities.

2. *Wilson Reservoir SRMA* (5,440 acres). Motorized vehicle use is limited to designated routes and designated shoreline areas to implement the 1983 Recreation Area Management Plan. The plan was developed to provide for recreation and associated resource management and provide for public safety and health concerns.

3. *Wildhorse SRMA* (5,760 acres). Motorized vehicle use is limited to designated routes within this area. This includes the existing North Wildhorse Recreation Area, a developed campground, and the proposed West Wildhorse Campground and its future access route.

4. *Zunino/Jiggs Reservoir SRMA* (800 acres). Motorized vehicle use is limited to designated routes and shoreline areas, and the designated sand dune ORV play areas in order to maintain and enhance natural resources for camping, picnicking, and water based recreation activities.

5. *South Fork Canyon SRMA* (3,360 acres). Vehicle use is limited to designated roads and trails to enhance the management of water based recreation, to provide protection of historic and prehistoric cultural resources, to enhance recreation opportunities through coordination with the adjoining South Fork State Park, and to resolve user conflicts.

6. *Rough Hills WSA* (6,685 acres). Vehicle use is limited to the one existing vehicle way in order to provide for primitive recreation opportunities.

7. *Little Humboldt River WSA* (29,775 acres). Vehicle use is limited to designated vehicle ways within the preliminarily suitable portion of the WSA to enhance primitive recreation

activities and provide protection of cultural resources, wild horses, and special high value wildlife resources.

8. *South Fork Owyhee River* (5,100 acres). Motorized vehicle use is limited to existing vehicle ways in the preliminarily suitable portion of the WSA to enhance white water recreational activities in conformance with the 1983 *Owyhee River Recreation Area Management Plan*.

9. *Owyhee Canyon WSA* (13,525 acres). Motorized vehicle use is limited to existing vehicle ways within the preliminarily suitable portion of the WSA to enhance white water recreational activities in conformance with the 1983 *Owyhee River Recreation Area Management Plan*.

These designations become effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the authorized officer. The Environmental Impact Statement for the Elko Resource Management Plan is available for inspection at the Elko District Office, listed below.

For further information contact either the Elko District Manager or the Elko Area Manager at the following address: District Manager, Elko District Office, 3900 E. Idaho Street, P.O. Box 831, Elko, NV 89801, 702-738-4071.

Dated: November 1987.

Rodney Harris,  
District Manager.

[FR Doc. 87-28383 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-HC-M

[ES-970-08-4111-11-2411; ES 35567]

#### Proposed Reinstatement of a Terminated Oil and Gas Lease; Mississippi

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Reinstatement of terminated oil and gas lease ES 35567.

**SUMMARY:** Terminated Oil and Gas Lease ES 35567 located in Jackson and Harrison Counties, Mississippi, T. 4 S., R. 9 W., containing 400.35 acres.

**FOR FURTHER INFORMATION CONTACT:** Ms. Betty Beckham at (703) 274-0150.

**SUPPLEMENTARY INFORMATION:** Federal oil and gas lease ES 35567 terminated automatically by operation of law on May 1, 1987 (30 U.S.C. 188).

A petition for reinstatement of ES 35567 was filed by SECAN Oil Company, Inc. (Lessee) under Section 31D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982 (96 Stat. 2447).

The Lessee has met all the following requirements for reinstatement:

- (a) \$500...Reimbursement of Departmental Administrative Cost.
- (b) \$2,005..... Back Rental Payments.
- (c) \$125.....Publication Cost.

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to \$5.00 per acre per year, and royalty increased to 16% percent beginning May 1, 1987.

Stuart F. Carlson,  
Acting State Director.

[FR Doc. 87-28384 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-GJ-M

[NM-943-07-4111-13; NM NM 58538]

#### Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

*United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504.* Under the provisions of 43 CFR 3108.2-3, IREX Operating Co., petitioned for reinstatement of oil and gas lease NM NM 58538 covering the following described lands located in Roosevelt County, New Mexico:

T. 8 S., R. 37 E., NMPM, New Mexico  
Sec. 22: NW ¼ NW ¼, S ½ NW ¼, SW ¼,  
W ½ SE ¼.

Containing 360.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of \$500.00 has been paid. Future rentals shall be at the rate of \$10.00 per acre per year and royalties shall be at the rate of 16% percent, computed on a sliding scale 4 percent points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, June 1, 1987.

Date: December 1, 1987.

Tessie R. Anchondo,  
Chief, Adjudication Section.

[FR Doc. 87-28385 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-FB-M



[NM-943-07-4111-13; NM NM 58537]

**Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico**

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2-3, IREX Operating Co., petitioned for reinstatement of oil and gas lease NM NM 58537 covering the following described lands located in Roosevelt County, New Mexico:

T. 8 S., R. 37 E., NMPM, New Mexico  
Sec. 20: All.  
Containing 640.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of \$500.00 has been paid. Future rentals shall be at the rate of \$10.00 per acre per year and royalties shall be at the rate of 16 2/3 percent, computed on a sliding scale 4 percent points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, June 1, 1987

Date: December 1, 1987.

Tessie R. Anchondo,  
Chief, Adjudication Section.

[FR Doc. 87-28386 Filed 12-10-87; 8:45 am]

BILLING CODE 4310-FB-M

[AZ-940-08-4212; A-21081]

**Arizona, Opening Order**

December 3, 1987.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Order providing for opening of mineral estate in Arizona.

**SUMMARY:** This notice is to inform the public of the opening of the mineral estate in 54,988.97 acres acquired by the United States in State Exchange A-21081.

**FOR FURTHER INFORMATION CONTACT:** Marsha Luke, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 241-5534.

**SUPPLEMENTARY INFORMATION:** At 10 a.m. on January 11, 1988 the mineral estate on the reconveyed land described below will be opened to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

**Gila and Salt River Meridian, Arizona**

T. 4 S., R. 23 E.,  
Sec. 2, lots 1-4, incl., S 1/2 N 1/2, S 1/2;  
Sec. 16, all;  
Sec. 36, lots 1-3, incl., N 1/2, SE 1/4.  
T. 4 S., R. 25 E.,  
Sec. 17, W 1/2;  
Sec. 20, W 1/2;  
Sec. 32, all.  
T. 5 S., R. 24 E.,  
Sec. 2, lots 1-4, incl., E 1/2 SW 1/4, S 1/2 SE 1/4;  
Sec. 36, NE 1/4, W 1/2, E 1/2, SE 1/4.  
T. 5 S., R. 25 E.,  
Sec. 16, all;  
Sec. 32, all.  
T. 5 S., R. 27 E.,  
Sec. 27, all.  
T. 6 S., R. 25 E.,  
Sec. 2, lots 3 and 4, S 1/2 NW 1/4, SW 1/4.  
T. 6 S., R. 26 E.,  
Sec. 32, lot 5, NE 1/4, N 1/2 S 1/2.  
T. 7 S., R. 28 E.,  
Sec. 2, lots 1-4, incl., S 1/2 N 1/2, S 1/2;  
Sec. 32, all;  
Sec. 36, N 1/2, N 1/2 S 1/2, S 1/2 SW 1/4, SW 1/4 SE 1/4.  
T. 7 S., R. 29 E.,  
Sec. 32, all.  
T. 8 S., R. 27 E.,  
Sec. 2, lots 1-4, incl., S 1/2 N 1/2, S 1/2;  
Sec. 3, SW 1/4;  
Sec. 36, all.  
T. 8 S., R. 28 E.,  
Sec. 2, all;  
Sec. 13, all;  
Sec. 36, lots 1-4, incl., N 1/2, N 1/2 S 1/2.  
T. 8 S., R. 29 E.,  
Sec. 16, all;  
Sec. 32, all.  
T. 9 S., R. 27 E.,  
Sec. 31, lots 3 and 4, E 1/2, E 1/2 SW 1/4;  
Sec. 32, all.  
T. 9 S., R. 28 E.,  
Sec. 2, lots 2, 4-16, incl., S 1/2 SW 1/4;  
Sec. 36, lot 3, E 1/2 NW 1/4, SW 1/4 NW 1/4.  
T. 10 S., R. 27 E.,  
Sec. 6, lots 1-7, incl., S 1/2 NW 1/4, SE 1/4 NW 1/4, E 1/2 SW 1/4, SE 1/4;  
Sec. 7, lots 1-4, incl., E 1/2, E 1/2 W 1/2;  
Sec. 16, all;  
Sec. 18, lots 1-4, incl., E 1/2, E 1/2 W 1/2;  
Sec. 19, lots 1-4, incl., E 1/2, E 1/2 W 1/2;  
Sec. 32, all;  
Sec. 36, all.  
T. 10 S., R. 28 E.,  
Sec. 32, all.  
T. 10 S., R. 29 E.,

Sec. 16, E 1/2;  
Sec. 32, all.  
T. 10 S., R. 30 E.,  
Sec. 33, lots 1-4, incl., N 1/2, N 1/2 S 1/2.  
T. 11 S., R. 27 E.,  
Sec. 2, lots 1, 2, 3, 5, 6 and 7, S 1/2 NE 1/4, S 1/2;  
Sec. 13, all;  
Sec. 16, all.  
T. 11 S., R. 28 E.,  
Sec. 2, lots 1-4, incl., S 1/2 N 1/2, S 1/2;  
Sec. 36, all.  
T. 11 S., R. 29 E.,  
Sec. 9, all;  
Sec. 24, all;  
Sec. 25, N 1/2, N 1/2 S 1/2;  
Sec. 32, all.  
T. 11 S., R. 30 E.,  
Sec. 1, lots 3 and 4;  
Sec. 2, lots 1-4, incl., S 1/2 N 1/2, S 1/2.  
T. 11 S., R. 31 E.,  
Sec. 2, lots 1-4, incl., S 1/2 N 1/2, S 1/2;  
Sec. 28, S 1/2 NW 1/4, SW 1/4;  
Sec. 32, N 1/2 NE 1/4.  
T. 12 S., R. 29 E.,  
Sec. 4, lots 1, 3 and 4, SE 1/4 NE 1/4, S 1/2 NW 1/4, S 1/2;  
Sec. 5, lots 1-4, incl., S 1/2 N 1/2, SE 1/4;  
Sec. 6, lots 1-7, incl., S 1/2 NE 1/4, SE 1/4 NW 1/4, E 1/2 SW 1/4, SE 1/4;  
Sec. 7, lots 1-4, incl., E 1/2, E 1/2 W 1/2;  
Sec. 8, NW 1/4;  
Sec. 9, W 1/2;  
Sec. 10, all;  
Sec. 13, all;  
Sec. 14, all;  
Sec. 15, all;  
Sec. 16, all;  
Sec. 17, N 1/2;  
Sec. 20, all;  
Sec. 21, all;  
Sec. 22, N 1/2, SE 1/4;  
Sec. 23, all;  
Sec. 24, N 1/2, SW 1/4, W 1/2 SE 1/4;  
Sec. 25, N 1/2, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4;  
Sec. 26, all;  
Sec. 27, all;  
Sec. 28, all;  
Sec. 30, lots 1 and 2, NE 1/4, E 1/2 NW 1/4;  
Sec. 33, N 1/2 NE 1/4;  
Sec. 34, E 1/2, S 1/2 NW 1/4;  
Sec. 35, E 1/2, SW 1/4;  
Sec. 36, all.  
T. 12 S., R. 30 E.,  
Sec. 16, all;  
Sec. 18, lots 1-4, incl., E 1/2, E 1/2 W 1/2;  
Sec. 19, lots 1-4, incl., E 1/2, E 1/2 W 1/2;  
Sec. 20, W 1/2;  
Sec. 28, all;  
Sec. 29, all;  
Sec. 30, lots 1-4, incl., NE 1/4, E 1/2 W 1/2;  
Sec. 32, all;  
Sec. 33, N 1/2, SW 1/4;  
Sec. 34, W 1/2;  
Sec. 36, lots 1 and 2, E 1/2, E 1/2 NW 1/4, SW 1/4.  
T. 13 S., R. 28 E.,  
Sec. 29, SE 1/4.  
T. 13 S., R. 29 E.,  
Sec. 1, lot 1;  
Sec. 2, lots 1-12, incl., S 1/2 N 1/2;  
Sec. 3, lots 1 and 2, lots 5-14, incl.;  
Sec. 10, lots 1-8, incl.;  
Sec. 11, lots 3-6, incl.;  
Sec. 14, N 1/2 NW 1/4;  
Sec. 15, E 1/2 NE 1/4.  
T. 13 S., R. 30 E.,



Sec. 1, lot 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 2, lots 1, 2, 3 and 5, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ ,  
 W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 3, lots 2-7, incl., S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 4, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 6, lots 1-7, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ .  
 T. 15 S., R. 28 E.,  
 Sec. 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ .  
 Comprising 54,988.97 acres in Cochise,  
 Graham, Greenlee, Pima and Pinal Counties.  
**Carol Burger,**  
*Acting Chief, Branch of Lands and Minerals*  
*Operations.*  
 [FR Doc. 87-28303 Filed 12-9-87; 8:45 am]  
 BILLING CODE 4310-32-M

[AZ-940-08-4212-12; A-18416-D and A-20242-D]

### Reconveyed Land Opened to Entry; Apache County, Arizona

December 3, 1987.

**AGENCY:** Bureau of Land Management,  
Interior.

**ACTION:** Notice.

**SUMMARY:** This action will open 4,327.05  
 acres of reconveyed land in Apache  
 County to State Exchange Application.  
**DATE:** March 9, 1987.

**SUPPLEMENTARY INFORMATION:** On  
 December 30, 1985 and January 13, 1986,  
 as authorized under the provisions of  
 the Navajo-Hopi Settlement Act, Pub. L.  
 93-531, 98 Stat. 1712 (1974); as amended  
 and the Federal Land Policy and  
 Management Act of 1976 (43 U.S.C. 1201  
 et. seq.), the United States acquired the  
 following land:

#### Gila and Salt River Meridian, Arizona

T. 19 N., R. 25 E.,  
 Sec. 2, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 5, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 7, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 9, all;  
 Sec. 10, all;  
 Sec. 11, all of that portion lying North and  
 West of the Atchison, Topeka and Santa  
 Fe Railway Company's right-of-way;  
 EXCEPTING that portion described as  
 follows:  
 Commencing at the Southwest corner of  
 Section 35, T. 20 N., R. 25 E., G&SRM;  
 Thence South 00°03'30" West along the  
 southerly prolongation of the westerly line of  
 said Section 35, a distance of 6,300 feet;  
 Thence South 89°56'30" East 50.00 feet to  
 the True Point of Beginning of the parcel  
 being herein described;  
 Thence continuing South 89°56'30" East  
 200.00 feet;  
 Thence South 00°03'30" West 250.00 feet;  
 Thence North 89°56'30" West 200.00 feet;  
 Thence North 00°03'30" East 250.00 feet to  
 the Point of ending, containing 1.15 acres,  
 more or less;  
 Sec. 15, all that portion lying North and  
 West of the Atchison Topeka and Santa  
 Fe Railway Company's right-of-way;

Sec. 16, all;  
 Sec. 17, all;  
 Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 21, all of that portion lying North and  
 West of the Atchison, Topeka and Santa  
 Fe Railway Company's right-of-way;  
 Sec. 29, all of that portion lying North and  
 West of the Atchison, Topeka and Santa  
 Fe Railway Company's right-of-way;  
 Containing 4,327.05 acres.

The land described above has been  
 determined suitable for disposal by  
 State Exchange, as provided by section  
 206 of the Federal Land Policy and  
 Management Act of 1976 (90 Stat. 2756;  
 43 U.S.C. 1716), the land will continue to  
 be segregated from settlement, sale,  
 location or entries under the public  
 lands laws, including the mineral leasing  
 and the mining laws.

Inquiries concerning the land should  
 be addressed to the Chief, Branch of  
 Lands and Minerals Operations,  
 Arizona State Office, Bureau of Land  
 Management, P.O. Box 16563, Phoenix,  
 Arizona 85011.

**Carol Burger,**

*Acting Chief, Branch of Lands and Minerals*  
*Operations.*

[FR Doc. 87-28305 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-32-M

AZ-940-08-4212-13; A-13138

### Arizona; Conveyance of Public Land; Order Providing for Opening of Land

December 3, 1987.

**AGENCY:** Bureau of Land Management,  
Interior.

**ACTION:** Notice and Opening Order.

**SUMMARY:** This action serves to inform  
 the public of the conveyance of 4,149.11  
 acres of public land and minerals out of  
 Federal ownership and the acquisition  
 of 24,649.07 acres by the United States.  
 This Notice will open all of the 24,649.07  
 acres of reconveyed lands to surface  
 entry. A total of 320.00 acres will be  
 opened to mining and mineral leasing.  
 The mineral estate in 23,412.34 acres  
 was not conveyed to the United States  
 and in the remaining 916.73 acres the  
 mineral estate was already in Federal  
 ownership.

**FOR FURTHER INFORMATION CONTACT:**  
 Lisa Schaalman, Bureau of Land  
 Management, Arizona State Office (602)  
 241-5534.

**SUPPLEMENTARY INFORMATION:** Notice is  
 hereby given of the completion of an  
 exchange between the United States  
 and Donald J. Laughlin. The Bureau of  
 Land Management transferred the  
 following described land on August 28,  
 1987, by Patent No. 02-87-0041, pursuant  
 to Section 206 of the Federal Land Policy

and Management Act of October 21,  
 1976:

#### Gila and Salt River Meridian, Arizona

T. 20 N., R. 14 W.,  
 Sec. 30, lot 5, NE $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 20 N., R. 15 W.,  
 Sec. 25, W $\frac{1}{2}$ .  
 T. 20 N., R. 21 W.,  
 Sec. 4, lots 1-4, incl., S $\frac{1}{2}$ ;  
 Sec. 8, N $\frac{1}{2}$ , SE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 10, all;  
 Sec. 16, all;  
 Sec. 18, lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 20, NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ N  
 W $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ N  
 W $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ S  
 $\frac{1}{2}$ W $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 22, all;  
 Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ .

In exchange the surface in the  
 following described land was  
 reconveyed to the United States:

#### Gila and Salt River Meridian, Arizona

##### PARCEL I

T. 19 N., R. 14 W.,  
 Sec. 1, lots 1-4, incl. S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 3, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 7, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 9, all;  
 Sec. 11, all;  
 Sec. 13, all;  
 Sec. 15, all;  
 Sec. 17, all;  
 Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$ .  
 T. 19 N., R. 15 W.,  
 Sec. 1, lots 3 & 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 3, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 7, N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 9, all;  
 Sec. 11, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ,  
 N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
 Sec. 17, all;  
 Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 21, all;  
 Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ ,  
 S $\frac{1}{2}$ ;  
 Sec. 25, all;  
 Sec. 27, all;  
 Sec. 29, all;  
 Sec. 31, lots 1-4, incl., E $\frac{1}{2}$ , EW $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 33, all;  
 Sec. 35, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 20 N., R. 14 W.,  
 Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 7, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 21, all;  
 Sec. 23, N $\frac{1}{2}$ , SW $\frac{1}{4}$ ;  
 Sec. 25, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 27, all;  
 Sec. 29, NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;



Sec. 31, lot 4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 33, all;  
 Sec. 35, all.  
 T. 20 N., R. 15 W.,  
 Sec. 1, lot 1, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 3, lots 1-3, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 11, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 15, W $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ , NW $\frac{1}{4}$ SE $\frac{1}{2}$ ;  
 Sec. 23, S $\frac{1}{2}$ W $\frac{1}{2}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 25, a parcel of land situated in the E $\frac{1}{2}$   
 being all that portion of said property  
 contained within a strip of land 100 feet  
 in width, being 50 feet on each side of the  
 following described centerline:  
 Beginning at the Northeast corner of said  
 Section 25; thence North 90 degrees 00  
 minutes 00 seconds West, along the North  
 line of said Section 25, a distance of 213.39  
 feet to a point on a curve and the True POINT  
 OF BEGINNING; thence along a curve to the  
 right having a radius of 1330.00 feet, a central  
 angle of 004 degrees 49 minutes 56 seconds,  
 an arc length of 112.17 feet, and a chord  
 which bears South 11 degrees 17 minutes 27  
 seconds West to its point of tangency; thence  
 South 13 degrees 42 minutes 25 seconds West  
 a distance of 73.30 feet to a point of curve;  
 thence along a curve to the left having a  
 radius of 2500.00 feet, a central angle of 006  
 degrees 49 minutes 31 seconds, an arc length  
 of 297.81 feet, and a chord which bears South  
 10 degrees 17 minutes 40 seconds West to its  
 point of tangency; thence South 06 degrees 52  
 minutes 54 seconds West a distance of 320.68  
 feet to a point of curve; thence along a curve  
 to the right having a radius of 460.00 feet, a  
 central angle of 027 degrees 56 minutes 34  
 seconds, an arc length of 224.34 feet, and a  
 chord which bears South 20 degrees 51  
 minutes 11 seconds West to its point of  
 tangency; thence South 34 degrees 49 minutes  
 28 seconds West a distance of 55.78 feet to a  
 point of curve; thence along a curve to the left  
 having a radius of 400.00 feet, a central  
 angle of 030 degrees 44 minutes 20 seconds,  
 an arc length of 214.60 feet, and a chord  
 which bears South 19 degrees 27 minutes 18  
 seconds West to its point of tangency; thence  
 South 04 degrees 05 minutes 08 seconds West  
 a distance of 633.64 feet to a point of curve;  
 thence along a curve to the left having a  
 radius of 280.00 feet, a central angle of 038  
 degrees 46 minutes 51 seconds, an arc length  
 of 189.52 feet, and a chord which bears South  
 15 degrees, 18 minutes 17 seconds East to its  
 point of tangency; thence South 34 degrees 41  
 minutes 43 seconds East a distance of 67.60  
 feet to a point of curve; thence along a curve  
 to the right having a radius of 110.00 feet, a  
 central angle of 106 degrees 46 minutes 02  
 seconds, an arc length of 204.98 feet, and a  
 chord which bears South 18 degrees 41  
 minutes 18 seconds West to its point of  
 tangency; thence South 72 degrees 04 minutes  
 19 seconds West a distance of 180.73 feet to a  
 point of curve; thence along a curve to the left  
 having a radius of 300.00 feet, a central angle  
 of 057 degrees 19 minutes 42 seconds, an arc  
 length of 300.17 feet, and a chord which bears  
 South 43 degrees 24 minutes 28 seconds West  
 to its point of tangency; thence South 14  
 degrees 44 minutes 37 seconds West a  
 distance of 157.84 feet to a point of curve;  
 thence along a curve to the left having a  
 radius of 900.00 feet, a central angle of 009

degrees 01 minutes 59 seconds, an arc length  
 of 141.89 feet, and a chord which bears South  
 10 degrees 13 minutes 37 seconds West to its  
 point of tangency; thence South 05 degrees 42  
 minutes 38 seconds West a distance of 55.94  
 feet to a point of curve; thence along a curve  
 to the right having a radius of 340.00 feet, a  
 central angle of 024 degrees 32 minutes 45  
 seconds, an arc length of 145.66 feet, and a  
 chord which bears South 17 degrees 59  
 minutes 01 seconds West to its point of  
 tangency; thence South 30 degrees 15 minutes  
 23 seconds West a distance of 18.25 feet to a  
 point of curve; thence along a curve to the left  
 having a radius of 250.00 feet, a central angle  
 of 021 degrees 09 minutes 58 seconds, an arc  
 length of 92.35 feet, and a chord which bears  
 South 19 degrees 40 minutes 24 seconds West  
 to its point of tangency; thence South 09  
 degrees 05 minutes 25 seconds West a  
 distance of 262.34 feet to a point of curve;  
 thence along a curve to the left having a  
 radius of 1600.00 feet, a central angle of 014  
 degrees 03 minutes 36 seconds, an arc length  
 of 392.63 feet, and a chord which bears South  
 02 degrees 03 minutes 37 seconds West to its  
 point of tangency; thence South 04 degrees 58  
 minutes 11 seconds East a distance of 116.77  
 feet to a point of curve; thence along a curve  
 to the right having a radius of 800.00 feet, a  
 central angle of 020 degrees 54 minutes 54  
 seconds, an arc length of 292.03 feet, and a  
 chord which bears South 05 degrees 29  
 minutes 16 seconds West to its point of  
 tangency; thence South 15 degrees 56 minutes  
 43 seconds West a distance of 212.53 feet to a  
 point of curve; thence along a curve to the  
 right having a radius of 750.00 feet, a central  
 angle of 011 degrees 40 minutes 00 seconds, an  
 arc length of 152.72 feet, and a chord which  
 bears South 21 degrees 46 minutes 43 seconds  
 West to its point of tangency; thence South 27  
 degrees 36 minutes 43 seconds West a  
 distance of 63.16 feet to a point of curve;  
 thence along a curve to the left having a  
 radius of 850.00 feet, a central angle of 009  
 degrees 42 minutes 47 seconds, an arc length  
 of 144.10 feet, and a chord which bears South  
 22 degrees 45 minutes 19 seconds West to its  
 point of tangency; thence South 17 degrees 53  
 minutes 56 seconds West a distance of 580.74  
 feet, more or less, to a point on the South line  
 of said Section 25, a distance of 1520 feet,  
 more or less, from the Southeast corner  
 thereof.

A parcel of land situated in the E $\frac{1}{2}$  being  
 all that portion of said property contained  
 within a strip of land 60 feet in width, being  
 30 feet on each side of the following  
 described centerline:

BEGINNING at the East quarter corner of  
 said Section 25; thence South 00 degrees 01  
 minutes 19 seconds East, along the East line  
 of said Section 25, a distance of 353.95 feet to  
 a point on a curve being the True POINT OF  
 BEGINNING; thence along a curve to the  
 right having a radius of 185.00 feet, a central  
 angle of 021 degrees 13 minutes 06 seconds,  
 an arc length of 68.51 feet, and a chord which  
 bears North 84 degrees 39 minutes 50 seconds  
 West to its point of tangency; thence North 74  
 degrees 03 minutes 17 seconds West a  
 distance of 26.10 feet to a point of curve;  
 thence along a curve to the right having a  
 radius of 290.00 feet, a central angle of 029  
 degrees 03 minutes 17 seconds, an arc length

of 136.92 feet, and a chord which bears North  
 59 degrees 31 minutes 38 seconds West to its  
 point of tangency; thence North 45 degrees 00  
 minutes 00 seconds West a distance of 56.72  
 feet to a point of curve; thence along a curve  
 to the left having a radius of 150.00 feet, a  
 central angle of 032 degrees 00 minutes 19  
 seconds, an arc length of 83.79 feet, and a  
 chord which bears North 61 degrees 00  
 minutes 10 seconds West to its point of  
 tangency; thence North 77 degrees 19 minutes  
 19 seconds West a distance of 73.22 feet to a  
 point of curve; thence along a curve to the  
 right having a radius of 250 feet, a central  
 angle of 007 degrees 51 minutes 35 seconds,  
 an arc length of 34.29 feet, and a chord which  
 bears North 73 degrees 04 minutes 32 seconds  
 West to its point of tangency; thence North 69  
 degrees 08 minutes 44 seconds West a  
 distance of 124.21 feet to a point of curve;  
 thence along a curve to the right having a  
 radius of 250.00 feet, a central angle of 036  
 degrees 52 minutes 12 seconds, an arc length  
 of 160.88 feet, and a chord which bears North  
 50 degrees 42 minutes 38 seconds West to its  
 point of tangency; thence North 32 degrees 16  
 minutes 32 seconds West a distance of 47.54  
 feet to a point of curve; thence along a curve  
 to the left having a radius of 150.00 feet, a  
 central angle of 064 degrees 03 minutes 53  
 seconds, an arc length of 167.72 feet, and a  
 chord which bears North 64 degrees 18  
 minutes 29 seconds West to its point of  
 tangency; thence South 83 degrees 39 minutes  
 35 seconds West a distance of 81.80 feet to a  
 point of intersection with the centerline of the  
 parcel previously described.

T. 20 N., R. 15 W., (cont.)

Sec. 27, W $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ ;

Sec. 35, all.

T. 21 N., R. 15 W.,

Sec. 25, S $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ S  
 E $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ S  
 E $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 35, W $\frac{1}{2}$ SW $\frac{1}{4}$ .

Containing 23,412.34 acres

#### PARCEL II

T. 20 N., R. 14 W.,

Sec. 6, lots 1-7, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ .

T. 20 N., R. 15 W.,

Sec. 13, N $\frac{1}{2}$ ;

Containing 916.73 acres.

The surface and mineral estate in the  
 following described land was reconveyed to  
 the United States:

#### PARCEL III

T. 19 N., R. 15 W.,

Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ .

Containing 320.00 acres.

Parcels I, II, and III total 24,649.07  
 acres in Mohave County, Arizona.

At 9:00 a.m., on January 11, 1988, the  
 lands described as Parcels I, II, and III  
 will be open to operation of the public  
 land laws, subject to valid existing  
 rights, the provisions of existing  
 withdrawals, and the requirements of  
 applicable law.



At 9:00 a.m., on January 11, 1988, the land described as Parcel III will be open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for determination in local courts.

At 9:00 a.m., on January 11, 1988, the land described as Parcel III will be open to applications and offers under the mineral leasing laws.

All applications received at or prior to 9:00 a.m., on January 11, 1988, will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2-3, if necessary. Applications and offers received thereafter shall be considered in the order of filing.

The mineral estate in Parcel II was already in Federal ownership and has been and presently remains open to the operation of the mining and mineral leasing laws.

The purpose of this notice is to inform the public and interested State and local governmental officials of the transfer of public land and the acquisition of private land by the Federal Government.

This exchange enabled Donald J. Laughlin to acquire land near developed areas and enabled the United States to acquire land containing high multiple resource values. The exchange was made based on approximately equal values. The public interest was well served by the completion of this exchange.

Carol Burger,  
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-28304 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-32-M

[M-63929 (ND); MT-030-06-4212-14]

#### Realty Action; Competitive Sale Amendment; North Dakota

AGENCY: Bureau of Land Management,  
Dickinson District, Interior.

ACTION: Competitive sale of public land  
in Morton County, North Dakota  
amended.

**SUMMARY:** This notice amends a previous Notice of Realty Action that proposed a Competitive Sale of Public Lands, Case M-63929 (ND), published in the *Federal Register*, Vol. 52, No. 152, Pages 29447, 29448, issue of August 7, 1987 (FR Doc. 87-17942), and an amendment notice published in the *Federal Register*, Vol. 52, No. 188, Page 36472, issue of September 29, 1987 (FR Doc. 87-22429) to postpone the sale.

This sale will be rescheduled at a later date.

William F. Krech,  
District Manager.

Dated: December 3, 1987.

[FR Doc. 87-28320 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-DN-M

[CO-942-08-4520-12]

#### Colorado; Filing of Plats of Survey

December 1, 1987.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., December 1, 1987.

The plat, in five sheets, representing the dependent resurvey of portions of the south boundary, the subdivisional lines, and certain mineral surveys; and the survey of the subdivision of sections 28 and 33, T. 14 S., R. 69 W., Sixth Principal Meridian, Colorado for Group No. 733, was accepted November 6, 1987.

The plat representing the dependent resurvey of portions of the east boundary, the subdivisional lines, and the metes-and-bounds survey of private land claims; and the survey of the subdivision of sections 14, 23, and 25 and of lot 5 in section 14, T. 9 S., R. 86 W., Sixth Principal Meridian, Colorado for Group No. 777, was accepted November 13, 1987.

The plat representing the corrective survey of a portion of the subdivision of section 9, T. 5 N., R. 70 W., Sixth Principal Meridian, Colorado for Group No. 811, was accepted November 12, 1987.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines and a corrective survey of a portion of the subdivision of sections 27 and 30, T. 5 N., R. 71 W., Sixth Principal Meridian, Colorado for Group No. 811, was accepted November 12, 1987.

These surveys were executed to meet certain administration needs of this Bureau.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of

Land Management, Lakewood, Colorado, effective 10:00 a.m., February 9, 1987.

The plat representing the retracement of a portion of the Colorado and New Mexico State Boundary (from Mile Corner No. 291 + 0.90 to Mile Corner No. 296), the dependent resurvey of a portion of the Eighth Standard Parallel North (north boundary of T. 32 N., R. 14 W.), and the survey of the east boundary of T. 32 N., R. 15 W., the sectional correction line on the Fifth Latitudinal Section Line, and of the subdivisional lines, T. 32 N., R. 14 W., New Mexico Principal Meridian, Colorado for Group No. 735, was accepted November 10, 1987.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-28319 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-JB-M

[UT-060-4410-08]

#### San Juan Resource Area, Moab District, Utah; Resource Management Plan

AGENCY: Bureau of Land Management,  
Interior.

ACTION: Notice of Availability of  
Proposed Resource Management Plan  
and Final Environmental Impact  
Statement.

**SUMMARY:** The proposed resource management plan and final environmental impact statement (RMP/EIS) for the San Juan Resource Area, Moab District, Utah is available for distribution to the public, federal, state and local agencies, and Indian tribes. The RMP will guide management of the public lands and resources in the San Juan Resource Area, Bureau of Land Management (BLM).

The proposed RMP would provide comprehensive management for public lands and resources on 1.8 million acres of public land in San Juan County, Utah. It would designate ten Areas of Critical Environmental Concern (ACECs). The final EIS presents five land use alternatives for management of the San Juan Resource Area.

A 30-day protest period on the proposed RMP will commence with publication of Notice of Availability for



the final EIS in the **Federal Register** by the Environmental Protection Agency. The RMP will be implemented after publication of a separate Record of Decision and Final RMP.

**FOR FURTHER INFORMATION CONTACT:** Ed Scherick, San Juan Resource Area Manager, BLM, Box 7, Monticello, Utah 84535; (801) 587-2141.

**SUPPLEMENTARY INFORMATION:** The San Juan RMP/EIS analyzes five alternative multiple use management plans. Each plan provides management guidance for all relevant resource management programs administered by the San Juan Resource Area. Various combinations of special designations are analyzed under the different alternatives.

1. Alternative A (no action) presents the continuation of current management.

2. Alternative B emphasizes the production of mineral resources and livestock forage.

3. Alternative C emphasizes use of the public lands for recreation, protection of wildlife habitat, and preservation of watershed values.

4. Alternative D emphasizes the preservation of large tracts of public land to protect vegetation resources, protection of cultural resources beyond the requirements of law, and increasing the extent of area available for primitive recreation.

5. Alternative E (the preferred alternative) provides for protection of specific resource values in certain places: opportunities for primitive recreation; scenic values; cultural resources beyond the requirements of law; wildlife habitat; and watershed. It also provides for the continuation of livestock grazing at current use levels in other areas, and otherwise making public lands available for the production of mineral resources.

The proposed RMP would designate ten ACECs. The special management designations are summarized in the accompanying table.

This action is announced pursuant to section 102(2)(c) of the National Environmental Policy Act of 1970, section 202(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR 1610. The proposed RMP is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5-2. Protests must be received by the Director of the BLM, 18th and C Streets NW., Washington DC 20240, within 30 days after the date of publication of Notice of Availability for the final EIS in the **Federal Register** by the Environmental Protection Agency.

Gene Nodine,  
District Manager.

#### PROPOSED ACECS SAN JUAN PROPOSED RMP

Name	Public land acres	Critical value protected	Summary of special conditions on surface use
Alkali Ridge	35,890	Cultural resources	Cultural properties protected from surface use; ORV use limited to existing routes.
Bridger Jack Mesa	5,290	Relict plant communities	No surface occupancy; no grazing; closed to ORV use.
Butler Wash	13,879	Scenic values	No surface occupancy; segregated from mineral entry; closed to ORV use.
Cedar Mesa	323,760		
Grand Gulch Special Emphasis Area	49,130		
Valley of the Gods Special Emphasis Area	36,800		
Primitive Recreation Opportunity Areas	21,120	Cultural resources, scenic and natural values.	Cultural properties protected from surface use; ORV use limited to designated routes. In special emphasis and primitive recreation areas: no surface occupancy; segregated from mineral entry; closed to ORV use.
Dark Canyon	62,040	Natural values	No surface occupancy; segregated from mineral entry; no grazing; closed to ORV use.
Hovenweep	1,500		
Cajon Pond Special Emphasis Area	10	Cultural resources, waterfowl habitat.	Cultural properties protected from surface use; ORV use limited to designated routes. In special emphasis area: grazing use limited; seasonal conditions on surface use.
Indian Creek	13,100	Scenic values	No surface occupancy; segregated from mineral entry; closed to ORV use.
Lavender Mesa	640	Relict plant communities	No surface occupancy; no grazing; closed to ORV use.
Scenic Highway Corridor	78,390	Scenic values	No surface occupancy; segregated from mineral entry; closed to ORV use.
Shay Canyon	1,770		
Upper Indian Creek Special Emphasis Area	200	Cultural resources, riparian habitat.	Cultural properties protected from surface use; ORV use limited to existing routes. In special emphasis area: riparian and aquatic habitat protected from surface use.

[FR Doc. 87-28298 Filed 12-9-87; 8:45 am]  
BILLING CODE 4310-DQ-M

[AK-932-08-4220-10; F-14988]

#### Amended Proposed Withdrawal Application and Opportunity for Public Meeting; Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Air Force has filed an amendment to an application to withdraw public lands as a buffer zone for the Indian Mountain Research Site. The amendment adjusts the boundaries of the original application and also includes additional public lands. This notice closes the additional 213 acres of

land for up to 2 years from location and entry under the United States mining laws. The lands will remain closed to all other forms of appropriation, including mineral leasing pursuant to Public Land Order (PLO) 5180, as amended.

**DATE:** Comments and requests for a public meeting must be received by March 9, 1988.

**ADDRESS:** Comments and meeting requests should be sent to the Alaska State Director, BLM, 701 C Street, Box 13, Anchorage, Alaska 99513.

**FOR FURTHER INFORMATION CONTACT:** Sandra Thomas, BLM Alaska State Office, 907-271-5477.

**SUPPLEMENTARY INFORMATION:** On January 27, 1984, the U.S. Army Corps of Engineers (COE) filed an application for the Department of the Air Force to

amend PLO No. 5164 to withdraw additional lands for the Indian Mountain Research Site. The lands for this withdrawal application were described in a notice published in the **Federal Register** April 12, 1985 (50 FR 14461); and corrected on May 23, 1985 (50 FR 21359), which segregated the subject lands from the operation of the public land laws for a period of 2 years (43 CFR 2310.2(a)).

On March 23, 1987, the COE refiled this application and a notice was published in the **Federal Register** April 9, 1987 (52 FR 11583). On August 24, 1987, the COE filed an amendment to adjust the boundaries of this application and also withdraw the following described lands from location and entry under the United States mining laws, subject to valid existing rights:



**Kateel River Meridian (Unsurveyed)**

T. 7 N., R. 25 E.,

Sec. 18, S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ S  
W $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 19, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$   
N $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ S  
E $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ N  
W $\frac{1}{2}$ SE $\frac{1}{4}$ , those portions excluding PLO  
Nos. 1910 and 3942.

The area described aggregates  
approximately 213 acres.

Total area for this application contains  
approximately 4,606.70 acres.

For a period of 90 days from the date  
of publication of this notice, all persons  
who wish to submit comments,  
suggestions, or objections in connection  
with the proposed withdrawal for the  
above described lands may present their  
views in writing to the undersigned  
officer of the Bureau of Land  
Management. All previous comments  
submitted in connection with the  
withdrawal application have been  
included in the record and will be  
considered in making a final  
determination on the application.

Notice is hereby given that an  
opportunity for a public meeting is  
afforded in connection with the  
proposed withdrawal. All interested  
persons who desire a public meeting for  
the purpose of being heard on the  
proposed withdrawal must submit a  
written request to the undersigned  
officer within 90 days from the date of  
the publication of this notice. Upon  
determination by the authorized officer  
that a public meeting will be held, a  
notice of the time and place will be  
published in the *Federal Register* at  
least 30 days before the scheduled date  
of the meeting.

The application will be processed in  
accordance with the regulations set  
forth in 43 CFR Part 2300.

For a period of 2 years from the date  
of publication of this notice in the  
*Federal Register*, the lands will be  
segregated as specified above unless the  
application is denied or canceled, or the  
withdrawal is approved prior to that  
date.

The temporary segregation of the  
lands in connection with a withdrawal  
application or proposal shall not affect  
administrative jurisdiction over the  
lands, and the segregation shall not  
have the effect of authorizing any use of  
the lands by the applicant agency.

Sue A. Wolf,

Chief, Branch of Land Resources.

[FR Doc. 87-28307 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-JA-M

[OR-943-08-4220-11; GP-08-035; OR-21570]

**Proposed Continuation of Withdrawal; Oregon**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

**SUMMARY:** The National Park Service  
proposes that a withdrawal continue for  
an indefinite period and requests that  
the land remain closed to surface entry  
and mining. The land has been and  
would remain open to mineral leasing  
subject to National Park Service  
concurrence.

**FOR FURTHER INFORMATION CONTACT:**  
Champ Vaughan, BLM, Oregon State  
Office, P.O. Box 2965, Portland, Oregon  
97208, 503-231-6905.

**SUPPLEMENTARY INFORMATION:** The  
National Park Service proposes that the  
Secretarial Order of August 12, 1907  
continue for an indefinite period  
pursuant to Section 204 of the Federal  
Land Policy and Management Act of  
1976, 90 Stat. 2751, 43 U.S.C. 1714. The  
land involved is located adjacent to the  
Oregon Caves National Monument  
within the Siskiyou National Forest in T.  
40 S., R. 6 W., W.M., Oregon.

The area described contains 2,560  
acres in Josephine County.

The purpose of the withdrawal is to  
reserve the land for potential use as a  
proposed national monument. The  
withdrawal currently segregates the  
land from operation of the public land  
laws generally, including the mining  
laws but not the mineral leasing laws.  
The National Park Service requests no  
changes in the segregative effect of the  
withdrawal but requests that the  
purpose of the withdrawal be changed  
from a proposed national monument to a  
resource preservation zone that would  
continue to provide protection to the  
Oregon Caves National Monument and  
protect critical resource values within  
the zone.

For a period of 90 days from the date  
of publication of this notice, all persons  
who wish to submit comments,  
suggestions, or objections in connection  
with the proposed withdrawal  
continuation may present their views in  
writing to the undersigned officer at the  
address specified below.

The authorized officer of the Bureau  
of Land Management will undertake  
such investigations as are necessary to  
determine the existing and potential  
demand for the land and its resources. A  
report will also be prepared for  
consideration by the Secretary of the  
Interior, the President and Congress,  
who will determine whether or not the

withdrawal will be continued and if so,  
for how long. The final determination on  
the continuation of the withdrawal will  
be published in the *Federal Register*.  
The existing withdrawal will continue  
until such final determination is made.

B. VaVelle Black,

Chief, Branch of Lands and Minerals  
Operations.

Dated: December 2, 1987

[FR Doc. 87-28302 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-33-M

[WY-930-08-4220-11; W-415, W-71805, W-71806, W-71809, W-71810]

**Proposed Continuation of Withdrawal, Correction; Wyoming**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

**SUMMARY:** This notice will correct the  
amount of acreage to be continued that  
was published in 49 FR 25314-25315, on  
June 20, 1984.

EFFECTIVE DATE: December 10, 1987.

**FOR FURTHER INFORMATION CONTACT:**  
Tamara Gertsch, P.O. Box 1828,  
Cheyenne, Wyoming, 82003, (307) 772-  
2072.

The acreage and land descriptions  
proposed for continuation in 49 FR  
25314-25315, June 20, 1984, are hereby  
corrected as follows:

In the summary paragraph on page  
25314 the acreage to be continued is  
changed from 320 acres to 200 acres.

In the first paragraph on page 25315,  
replace the land described with the  
following:

**Sixth Principal Meridian**

T. 36 N., R. 79 W.,

Sec. 13, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;Sec. 14, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

T. 21 N., R. 86 W.,

Sec. 10, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ .

T. 21 N., R. 90 W.,

Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ .

T. 16 N., R. 115 W.,

Sec. 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ .

The area described contains 200 acres in  
Natrona, Carbon, Sweetwater, and Uinta  
Counties.

December 2, 1987.

Marlyn V. Jones,

Acting State Director, Wyoming.

[FR Doc. 87-28300 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-22-M



**Minerals Management Service****Draft Environmental Impact Statement (EIS) on the Proposed Marine Mineral Lease Sale in the Hawaiian Archipelago and Johnston Island Exclusive Economic Zone (EEZ); Reopening of Comment Period****AGENCY:** Minerals Management Service, Interior.**ACTION:** Notice; reopening of comment period.

**SUMMARY:** This notice reopens the comment period for the draft EIS on the proposed marine mineral lease sale in the Hawaiian Archipelago and Johnston Island EEZ. The reopening was requested by the Director of Hawaii's Department of Business and Economic Development to provide additional time for the Hawaiian public to examine the draft EIS and to submit their comments. In response to this request, the Minerals Management Service (MMS) has agreed to reopen the comment period for an additional 60 days to solicit comment from interested parties. Comments received during the last comment period and prior to June 25, 1987, will still be considered and need not be resubmitted. However, any comments received after June 25, 1987, will not be considered unless they are resubmitted during this new comment period.

**DATES:** Interested individuals, representatives of organizations, and public officials who wish to comment on the draft EIS are requested to submit written comments which must be hand-delivered or postmarked on or before February 8, 1988.

**ADDRESSES:** Copies of the draft EIS may be obtained by written request or by telephoning the following:

Dr. Charles L. Morgan, State EIS Coordinator, Manganese Crust EIS Project, 1110 University Avenue, Room 411, Honolulu, Hawaii 96826, (808) 942-9556

or

Ms. Elizabeth A. Binsack, Office of Strategic and International Minerals, Minerals Management Service, 11 Golden Shore, Suite 260, Long Beach, California 90802, (213) 514-6140 or FTS 795-6140

Written comments on the draft EIS should be addressed to the Program Director, Office of Strategic and International Minerals, Minerals Management Service, 11 Golden Shore, Suite 260, Long Beach, California 90802.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Binsack, Office of Strategic and International Minerals, Minerals Management Service, telephone (213)

5146140 or (FTS) 795-6140; or Dr. Charles L. Morgan, State of Hawaii EIS Coordinator, telephone (808) 942-9556.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, in conjunction with the State of Hawaii, is considering the potential economic and environmental impacts resulting from the recovery of cobalt-rich manganese crusts found in the EEZ surrounding the Hawaiian Archipelago and Johnston Island.

As a result, a Federal Register Notice was published on March 27, 1987 (52 FR 9958), notifying the public of the availability of a draft EIS relating to the proposed lease sale for minerals other than oil, gas, and sulphur (minerals) of available blocks in the Hawaiian Archipelago and Johnston Island EEZ for cobalt-rich manganese crusts. Also included in that notice was a schedule of public hearings on the draft EIS, a list of locations where the draft EIS was available for inspection, and a solicitation for comments on the draft EIS. Another Federal Register Notice was published on May 7, 1987 (52 FR 17341), confirming the public hearing dates.

The MMS and the State of Hawaii held the scheduled public hearings to receive comments and suggestions relating to the draft EIS which provided the Secretary of the interior with information to evaluate the potential effects of marine cobalt-rich manganese crust mining.

After review of the concerns from individuals and organizations that the Hawaiian public was not given sufficient time or available copies of the draft EIS to provide input during the comment period, the Director of Hawaii's Department of Business and Economic Development, on September 22, 1987, formally requested a 60-day extension of the public comment period. In response to this request, MMS agrees that additional opportunity for public comment prior to the publication of the final EIS is warranted.

Copies of the draft EIS are available for inspection at the following public locations:

**California**

Long Beach Main Library, 101 Pacific Avenue, Long Beach, CA 90802 (213) 590-6291.

Los Angeles Regional Library, 11380 Santa Monica Boulevard, Los Angeles, CA 90025 (213) 312-8323

San Francisco Public Library, Government Documents Department, Civic Center, San Francisco, CA 94102 (415) 558-3321

Scripps Library, University of California-San Diego, Scripps Institution of Oceanography, La Jolla, CA 92093

**Hawaii**

Aiea Library, 99-143 Moanalua Road, Aiea, HI 97701 (808) 488-2654

Aina Haina Library, 5246 Kalaniana'ole Highway, Honolulu, HI 96821 (808) 373-3888

Bond Memorial Library, Akoni Pule Highway, Kapaa, HI 96755 (808) 889-6729

DBED Library, Information Office, 335 Merchant Street, Honolulu, HI 96813 (808) 548-3059

Ewa Beach Community School Library, 91-950 North Road, Ewa Beach, HI 96706 (808) 689-8391

Hanapepe Library, 4490 Kona Street, P.O. Box B, Hanapepe, HI 96716 (808) 395-5811

Hawaii Kai Library, 249 Lunalilo Home Road, Honolulu, HI 96825 (808) 395-2310

Hawaii Public Library, Pahoa Community School Library, P.O. Box 16, Pahoa, HI 96778 (808) 965-8574

Hawaii Regional Library, 300 Waianuenue Avenue, P.O. Box 647, Hilo, HI 96720 (808) 935-5407

Hawaii State Library, Federal Documents, 478 South King Street, Honolulu, HI 96813 (808) 548-4775

Hilo Community College, UH-Hilo Main Library, 1400 Kapiolani Street, Hilo, HI 96720 (808) 961-9525

Hilo Public Library, 300 Waianuenue Avenue, P.O. Box 647, Hilo, HI 96720 (808) 935-5407

Holualoa Library, P.O. Box 387, Holualoa, HI 96725 (808) 324-1233

Honokaa Library, Mamane Street, P.O. Box 236, Honokaa, HI 96727 (808) 775-7497

Honolulu Community College Library, 874 Dillingham Boulevard, Honolulu, HI 96817 (808) 845-9225

Kahuku Community School Library, 56-490 Kamehameha Highway, Kahuku, HI 96731 (808) 293-9275

Kailua Library, 239 Kuulei Road, Kailua, HI 96734 (808) 261-4611

Kailua-Kona Library, 75-138 Haalala Road, Kailua-Kona, HI 96740 (808) 329-2196

Kaimuki Regional Library, 1041 Koko Head Avenue, Honolulu HI 96816 (808) 732-0424

Kalihi-Palama Library, 135 Kalihi Street, Honolulu, HI 96819 (808) 845-3493

Kaneohe Regional Library, 45-829 Kamehameha Highway, Kaneohe, HI 96744 (808) 247-6691

Kapaa Library, 1464 Kuhio Highway, Kapaa, HI 96746 (808) 822-5041



Kapiolani Community College Library,  
4303 Diamond Head Road, Honolulu,  
HI 96816 (808) 735-3511

Kapiolani Community Library, 620  
Pensacola Street, Honolulu, HI 96814  
(808) 531-4654

Kauai Community College Library, 3-  
1901 Kaunualii Highway, Lihue,  
Kauai, HI 96766 (808) 245-8283

Kauai Regional Library, 4344 Hardy  
Street, Lihue, HI 96766 (808) 245-3617

Keaau Community School Library,  
Pahoa-Keaau Highway P.O. Box 949,  
Keaau, HI 96749 (808) 966-8181

Kealahou Community Library, Mamalahoa  
Highway, P.O. Box 768, Kealahou,  
HI 96750 (808) 323-3653

Legislative Reference Bureau Library,  
State Capitol, Room 004, Honolulu, HI  
96813 (808) 548-7853

Koloa Community School Library, 3451  
Poipu Road, P.O. Box 9, Koloa, HI  
96756 (808) 742-1635

Lanai Community School Library, Fraser  
Avenue, P.O. Box A-149, Lanai City,  
HI 96763 (808) 565-6996

Laupahoehoe Community School  
Library, P.O. Box 249, Laupahoehoe,  
HI 96764 (808) 962-6911

Law Library, Ali'ioli Hale, 417 South  
King Street, Honolulu, HI 96813 (808)  
548-7432

Leeward Community College Library,  
96-045 Ala Ike Street, Pearl City, HI  
96782 (808) 455-0215

Library for the Blind and Physically  
Handicapped, 402 Kapahulu Avenue,  
Honolulu, HI 96815 (808) 732-7767

Liliha Library, 1515 Liliha Street,  
Honolulu, HI 96817 (808) 537-9991

Manoa Library, 2716 Woodlawn Drive,  
Honolulu, HI 96822 (808) 988-6655

Maui Community College Library, 310  
Kaahumanu Avenue, Kahului, Maui,  
HI 96732 (808) 242-1213

Maui Library District, 251 High Street,  
P.O. Box B, Wailuku, HI 96793 (808)  
244-3947

Maui Public Library, 251 High Street,  
P.O. Box B, Wailuku, HI 96793 (808)  
244-3945

McCully-Moiliili Library, 2211 South  
King Street, Honolulu, HI 96826 (808)  
946-1408

Mililani Library, 95-1240 Meheula  
Parkway, Mililani Town, HI 96789

Molokai Public Library, Ala Malama  
Street P.O. Box 395, Kaunakakai, HI  
96748 (808) 553-5483

Mountain View Community School  
Library, Highway 11, P.O. Box 380,  
Kamuela, HI 96771 (808) 968-6300

Naalehu Library Station, Mamalahoa  
Highway, Pahala, HI 96777 (808) 928-  
8032

Pahala Community School Library,  
Kamani Street, Pahala, HI 96777 (808)  
928-8032

Pearl City Regional Library, 1138  
Waimano Home Road, Pearl City, HI  
96782 (808) 455-4234

Salt Lake / Moanalua Library, 848 Ala  
Lilikoi Street, Honolulu, HI 96818  
(808) 839-6099

Thelma Parker Memorial Community  
School Library, Mamalahoa Highway,  
P.O. Box 698, Kamuela, HI 96743 (808)  
885-4651

Hamilton Library, Government  
Documents, University of Hawaii-  
Manoa Campus, Honolulu, HI 96822

Hamilton Main Library, Hawaiian  
Collection, University of Hawaii-  
Manoa Campus, Honolulu, HI 96822

University of Hawaii-Hilo Main Library,  
Government Documents, 1400  
Kapiolani Street, Hilo, HI 96720 (808)  
961-9625

Wahiawa Library, 820 California  
Avenue, Wahiawa, HI 96786 (808)  
621-6331

Waialua Library, 67-063 Kealahou  
Street, Waialua, HI 96792 (808) 637-  
4876

Waianae Library, 85-625 Farrington  
Highway, Waianae, HI 96791 (808)  
696-4257

Waikiki-Kapahulu Library, 400  
Kapahulu Avenue, Honolulu, HI 96815  
(808) 732-2777

Waimanalo Community School Library,  
41-1320 Kalaniana'ole Highway,  
Waimanalo, HI 96795 (808) 259-9925

Waimea Library (Kauai), 9750 Kamali  
Highway, P.O. Box 397, Waimea, HI  
96796 (808) 338-1738

Waipahu Library, 94-521 Farrington  
Highway, Waipahu, HI 96797 (808)  
677-3742

Windward Community College Library,  
45-720 Kealahou Road, Kaneohe, HI  
96744 (808) 235-7436

Other Reference Locations:  
Division of Information and Library  
Services, U.S. Department of the  
Interior, 18th and C Streets, NW.,  
Washington, DC 20240

Government of Canada; Headquarters  
Library; Energy Mines, and Research;  
580 Booth Street; Ottawa, Canada;  
KIA OE4

Date: December 4, 1987.  
Thomas A. Readinger,  
Acting Associate Director for Offshore  
Minerals Management.

[FR Doc. 87-28345 Filed 12-9-87; 8:45 am]

BILLING CODE 4310-MR-M

**INTERNATIONAL BOUNDARY AND  
WATER COMMISSION**

**Availability of Final Environmental  
Assessment and Finding of No  
Significant Impact; Rio Grande  
Projects in Hudspeth County, TX**

**AGENCY:** United States Section,  
International Boundary and Water  
Commission, United States and Mexico.

**ACTION:** Notice of availability of final  
environmental assessment and finding  
of no significant impact.

**SUMMARY:** Pursuant to section 102(2)(C)  
of the National Environmental Policy  
Act of 1969; the Council on  
Environmental Quality Final  
Regulations (40 CFR Parts 1500-1508);  
and the U.S. Section's Operational  
Procedures for Implementing section 102  
of the National Environmental Policy  
Act (NEPA), published in the *Federal  
Register* September 2, 1981 (46 FR  
44083), the U.S. Section hereby gives  
notice that the Final Environmental  
Assessment and Finding of No  
Significant Impact for action to restore  
channel capacity in the Rio Grande  
Rectification and Boundary Preservation  
Projects in Hudspeth County, Texas are  
available. A finding of no significant  
impact dated October 7, 1987 provided a  
thirty (30) day comment period before  
making the finding final. The Notice was  
published in the *Federal Register* on  
October 16, 1987 (52 FR 38540).

**FOR FURTHER INFORMATION CONTACT:**  
Mr. M. R. Ybarra, U.S. Section Secretary,  
International Boundary and Water  
Commission, United States and Mexico,  
U.S. Section; The Commons, C-310; 4171  
North Mesa; El Paso, Texas 79902.  
Telephone: (915) 534-6698, FTS 572-6698.

#### **SUPPLEMENTARY INFORMATION:**

#### **Proposed Action**

The action proposed is that the U.S.  
Section conduct channel work in the Rio  
Grande in the uppermost 2.54-mile  
segment of the Boundary Preservation  
Project including the Little Box Canyon,  
the uppermost canyon reach in that  
project, in order that flood control  
capacity in the Rectification Project can  
be restored. The proposed work will  
include sediment removal, channel  
widening, channel deepening, and  
appropriate mitigation in the Boundary  
Preservation Project segment. The  
channel work will be performed in  
connection with channel maintenance  
work scheduled in the lowermost 16  
miles of the Rectification Project.

#### **Alternatives Considered**

Two alternatives were considered:  
The Proposed Action Alternative  
provides for widening and deepening of  
the Rio Grande channel from  
downstream of Little Box Canyon, in the  
Boundary Preservation Project, a  
distance of 2.54 miles. The aim of the  
channel work is to increase channel  
capacity to avoid ponding of the flows  
and sedimentation upstream of the  
canyon.



Channel work in the uppermost 2.54 miles of the Boundary Preservation Project requires a bottom width of 66 feet and depth of 6 to 11 feet. The channel depth is deepest at the end of the Rectification Project, where the depth of sediment deposition is high. Because the depth of sediment deposition varies along the 2.54 mile reach, and because the channel will be deepened to a constant bed slope, the resulting channel top width will vary from approximately 80 feet to 95 feet. This improved channel is designed to pass about 2,000 cfs. Spoil (excavated silt), for the most part, will be placed in Mexico beyond 100 feet from the river centerline. When spoil must be placed in the United States, it will be placed beyond 100 feet from the river centerline according to current Boundary Preservation Project construction practices.

The No Action Alternative is a continuation of current conditions. Routine operation and maintenance activities will continue in both the Rectification and Boundary Preservation Projects when stream conditions permit. The "bottleneck" created by the downstream project and canyon would remain. There would be no change in current conditions with the probability these conditions would become worse in the future as sedimentation continues. Because the present situation is unacceptable and will only worsen if nothing is done, the "no action" alternative has been rejected.

#### Availability

Single copies of the Final Environmental Assessment and Finding of No Significant Impact may be obtained by request at the above address.

Date: November 30, 1987.

Suzette Zaboroski,  
Staff Counsel.

[FR Doc. 87-28380 Filed 12-9-87; 8:45 am]

BILLING CODE 4710-03-M

#### INTERSTATE COMMERCE COMMISSION

##### Rail Carriers; Release of Waybill Data for Use in Applying This Data in Conjunction With Ex Parte No. 347 (Sub-No. 2) and Utilized in "McCarty"

The Commission has received a request from L. E. Peabody & Associates, Inc. for permission to use the Commission's costed 1979-1985 Waybill Sample. Peabody & Associates, Inc. requests permission to access these waybill files so that they may advise their clients of the results of applying

this data in conjunction with the procedures suggested in Ex Parte No. 347 (Sub-No. 2) and utilized in Docket No. 37809, McCarty Farms, Inc., et al. v. Burlington Northern, Inc.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (Ex Parte No. 385 (Sub-No. 2), 52 FR 12415, April 16, 1987).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objections to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision. Contact: James A. Nash, (202) 275-6864. Noreta R. McGee, Secretary.

[FR Doc. 87-28325 Filed 12-9-87; 8:45 am]

BILLING CODE 7035-01-M

##### Rail Carriers; Release of Waybill Data for Use by The Association of American Railroads

The Commission has received a request from the Association of American Railroads (AAR) to use the Commission's 1985 and 1986 Carload Waybill Sample for a study of hazardous materials accident rates. The Interindustry Task Force on the Safe Transportation of Hazardous Materials by Rail, of which AAR is a member, has authorized AAR's Research and Test Department to conduct this study. In the

study they hope to develop estimates of recent trends in hazardous materials accident rates. Individual commodities or class of commodities will be examined closely for any trends that may be evident. Their main objective is to identify improvements in hazardous materials transportation safety over the past few years as well as pinpoint any areas for further possible improvements.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (Ex Parte No. 385 (Sub-No. 2), 52 FR 12415, April 16, 1987).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objections to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision. Contact: James A. Nash, (202) 275-6864. Noreta R. McGee, Secretary.

[FR Doc. 87-28323 Filed 12-9-87; 8:45 am]

BILLING CODE 7035-01-M

#### [Finance Docket No. 31169]

##### Railroad Operation; Yorkrail, Inc.; Acquisition and Operation of Rail Line; Exemption

Yorkrail, Inc. (Yorkrail), a noncarrier, has filed a notice of exemption to acquire and operate 16 miles of rail line



from CSX Transportation, Inc. (CSX), extending between Porters, PA (milepost 0.00) and York PA (milepost 16.00). Yorkrail is wholly owned by Emons Development Corporation, which, in turn, is wholly owned by Emons Holdings, Inc. (Emons). Emons owns all of the outstanding stock of the Maryland and Pennsylvania Railroad Company, a class III railroad, and, accordingly, has filed a Petition for Exemption in Finance Docket No. 31170 pursuant to 49 U.S.C. 10505 for an exemption from the provisions of 49 U.S.C. 11343 with regard to its continued control of Yorkrail.

Comments must be filed with the Commission and served on Larry H. Mitchell, Arnell, Golden & Gregory, Suite 501, 1000 Potomac Street NW., Washington, DC 20007, (202) 337-0104.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: December 4, 1987.

By the Commission, Jane F. Mackall,  
Director, Office of Proceedings.

Noreta R. McGee,  
Secretary.

[FR Doc. 87-28387 Filed 12-9-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 222X)]

#### Railroad Services Abandonment Exemption; CSX Transportation, Inc.; Putnam and Parke Counties, IN

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments*, to abandon its 14.58-mile line of railroad between milepost 169.49 at or near Russellville and milepost 184.07 at or near Bloomingdale in Putnam and Parke Counties, IN.

Applicant has certified that (1) no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant

environmental or energy impacts are likely to result from this abandonment.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).<sup>1</sup>

The exemption will be effective January 9, 1988 unless stayed pending reconsideration. Petitions to stay must be filed by December 21, 1987 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 30, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative:

Lawrence H. Richmond, Peter J. Shultz,  
100 North Charles Street, Baltimore,  
MD 21201

Charles M. Rosenberger, Patricia Vail,  
500 Water Street, Jacksonville, FL  
32202

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: December 3, 1987.

By the Commission, Jane F. Mackall,  
Director, Office of Proceedings.

Noreta R. McGee,  
Secretary.

[FR Doc. 87-28388 Filed 12-9-87; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Asset Forfeiture Office

#### Publication of the Attorney General's Guidelines on Seized and Forfeited Property

##### FOR FURTHER INFORMATION CONTACT:

Director, Asset Forfeiture Office,  
Criminal Division, Bond Building, 10th  
floor, 1400 New York Avenue, NW.,  
Washington, DC, 20005. (202) 786-4950.

The Attorney General recently issued Guidelines on Seized and Forfeited Property. The Department of Justice is publishing the text of the *Guidelines* for the information and convenience of the public. The following is the text of the *Guidelines*.

<sup>1</sup> The Railway Labor Executives' Association (RLEA) filed a request for the imposition of labor protective conditions. Since the subject abandonment involves an exemption from section 10903, such conditions have been imposed routinely.

#### Attorney General's Guidelines on Seized and Forfeited Property

##### I. Statement of Policy

The following guidelines are designed to implement certain asset forfeiture provisions of the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986 pertaining to the disposition of forfeited property, the management and use of the Department of Justice Assets Forfeiture Fund, and the discontinuance of federal forfeiture actions to permit forfeiture by state or local procedures.

Title 21, United States Code (U.S.C.), section 881(e), authorizes the Attorney General to dispose of criminally or civilly forfeited property by (1) retaining the property for official use; (2) transferring custody or ownership of the property to any federal, state, or local agency pursuant to the Tariff Act of 1930, Title 19, U.S.C., section 1616; or (3) placing the forfeited cash or proceeds of sale of forfeited property in an appropriation called the Department of Justice Assets Forfeiture Fund (hereinafter "the Fund"). Subsection (c) of 19 U.S.C. 1616 authorizes the Attorney General to transfer forfeited property to any other Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

This authority is consistent with the Department of Justice's purpose of promoting cooperative law enforcement efforts in drug trafficking and other investigations. The Department intends to manage its asset forfeiture program in a manner designed to enhance this Federal, State, and local cooperation. Although section 1992 of the Anti-Drug Abuse Act of 1986, Pub. L. 99-750 (October 27, 1986) amended 21 U.S.C. 881(e) by deleting the familiar equitable sharing language directing the Attorney General to ensure equitable transfer of forfeited property to the appropriate state or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to seizure or forfeiture of such property, this remains the policy of the Department of Justice.

The Law Enforcement Coordinating Committees will assist in informing Federal, State, and local law enforcement agencies about the procedures for requesting an equitable transfer of forfeited property, help facilitate the application for transfer of such property, and promote the implementation of the forfeiture provisions of the Comprehensive Crime Control Act of 1984 and the Anti-Drug



Abuse Act of 1986 in each Federal district.

## II. Definitions and Other General Provisions

A. "Department investigative bureau" refers not only to an investigative unit within the Department of Justice but to any other federal agency investigative unit which by law deposits the proceeds of forfeited assets into the Department of Justice Assets Forfeiture Fund.

B. "Head of the Department investigative bureau" means the head of that bureau or his headquarters-level designee.

C. "Placing property into official use" means use of forfeited property by a Department bureau for any official purpose.

D. "Property" means tangible property and cash.

E. "Cash" means currency, negotiable instruments, and securities.

F. "State and local agencies" means state and local law enforcement agencies.

G. "Appraised value" means fair market value.

H. "Drug law enforcement function" means any official activity by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service which materially facilitates enforcement of the drug laws of the United States.

I. "Whenever the term 'Deputy Attorney General' is used in these Guidelines, the power or responsibility referred to may be exercised by a duly authorized Acting Deputy Attorney General.

J. Whenever the term "Associate Attorney General" is used in these guidelines, the power or responsibility referred to may be exercised by the Deputy Attorney General or by a duly authorized Acting Deputy or Acting Associate Attorney General.

K. Whenever the term "Assistant Attorney General, Criminal Division" is used in these guidelines, the power or responsibility referred to may be exercised by the Deputy Attorney General, the Associate Attorney General, a duly authorized Acting Assistant Attorney General of the Criminal Division, or by any Deputy Assistant Attorney General of the Criminal Division.

L. Whenever any reference is made in these Guidelines to "Criminal Division Section Chief" or the "Director, Asset Forfeiture Office, such reference shall also be deemed to include the Assistant Attorney General of the Criminal Division, any Deputy Assistant Attorney General in the Criminal Division, and

any duly authorized Acting Section Chief or Acting Director.

M. Whenever a statute, regulation, or official form cited in these Guidelines is replaced by a substantially identical statute, regulation, or official form designated by a new number, the citation will be deemed to refer to that new statute, regulation, or official form.

## III. Use and Transfer of Forfeited Property

### A. Retention of Property for Official Use

1. The Attorney General has the authority to retain any civilly or criminally forfeited tangible property for official use by any Department investigative bureau.

2. No forfeited cash, nor any proceeds from sales of forfeited property, may be transferred to, or retained by, any Federal agency under the provisions of 21 U.S.C. 881(e) governing disposition of forfeited property.

3. Payment of liens and mortgages pursuant to an authorization to place property into official use.

a. Liens and mortgages cumulatively amounting to less than one third of the appraised value of the asset and totaling less than \$50,000 will be paid from the Fund at the direction of the head of the Department investigative bureau.

b. Payments of liens or mortgages that, in the aggregate, total \$50,000 or greater or exceed one third of the appraised value of the asset, will be paid from the Fund at the request of the Department investigative bureau subject to the concurrence of the Associate Attorney General.

### B. Official Use by Department Investigative Bureau

1. The Attorney General's authority to place tangible property into official use is delegated to the head of the Department investigative bureau responsible for the processing of the forfeiture.

a. Each agency shall develop guidelines for determining the circumstances under which property is to be placed into official use. In no event is property to be placed into official use unless it is to be used for a significant law enforcement purpose as defined by agency guidelines. Such guidelines are to be reviewed and approved by the Associate Attorney General.

b. In making a decision concerning placing forfeited property into official use, the head of the Department investigative bureau must consider the financial status of the Department of Justice Assets Forfeiture Fund and the dollar value of the asset if sold.

c. Exercise of this delegation of authority is subject to concurrence by the Associate Attorney General for all property appraised at \$750,000 to \$2,000,000 and by the Deputy Attorney General for all property appraised at \$2,000,000 or more. For all property appraised at \$20,000 or more a special justification is to be prepared detailing the reasons why the property was placed into official use rather than having been sold. Such a justification is to be retained by the agency for a period of five years.

### C. Official Use by Other Department Bureaus

1. If the Department investigative bureau does not choose to place the forfeited property into official use, and if the property has not been equitably transferred, the Director, United States Marshals Service, will determine appropriate disposal, including ascertaining whether any remaining property is suitable for official use by other Department bureaus.

a. A decision to place such property into official use is subject to concurrence by the Associate Attorney General for all property appraised at \$750,000 to \$2,000,000 or by the Deputy Attorney General for all property appraised at \$2,000,000 or more.

2. After the Department investigative bureau declines to place the forfeited property into official use, and if the property is not equitably transferred, and if more than one Department component wants to retain for official use the same forfeited property, the Associate Attorney General will determine which component may place such property into official use.

### D. Transfer of Property to Federal, State, or Local Law Enforcement Agencies

#### 1. Attorney General's Authority for Equitable Transfer of Forfeited Property

a. Title 21, U.S.C. 881(e), and Title 19, U.S.C. 1616, as made applicable by 21 U.S.C. 881(d) and other statutes, authorize the Attorney General to transfer forfeited property to any federal agency or to any State or local law enforcement agency that directly participated in the acts which led to the seizure or forfeiture.

b. Property not retained for official use by the Department investigative bureau responsible for the processing of the forfeiture is eligible for equitable transfer.

c. Where a participating law enforcement agency petitions for a transfer of some or all of the forfeited property, the Attorney General shall



determine an equitable share that generally reflects the relative contribution of the participating agencies to the investigation leading to its seizure and forfeiture.

## 2. Procedure for Determining Equitable Transfer

a. Any Federal, State, or local law enforcement agency that participates in the acts leading to a seizure or forfeiture may file a request for an equitable transfer of the property.

b. the criteria for determining the equitable transfer of the property will be the same for all requests.

c. In all cases the final decision-making authority rests with the Attorney General or his designee.

## 3. Requests from Participating Law Enforcement Agencies

a. Within thirty days following the seizure for forfeiture, a federal, state, or local agency should submit a written request for an equitable transfer of the property subject to forfeiture in order to be assured of consideration, but in any event no later than the date of forfeiture or the disposition of the property, whichever is later.

b. This request must be filed with the local or regional office of the Department investigative bureau responsible for processing the forfeiture.

c. The request must include the following information:

(1) Identification of the property against which the claim is made;

(2) Details regarding the requesting agency's participation, including the amount of money and manpower expended by the Federal, State, or local agency in pursuing the case;

(3) A statement of the intended law enforcement use for the property;

(4) A designation of the proper fiscal entity to which disbursements can be made (which disbursements will not be made in currency);

(5) A designation of the proper official to whom transfer documents should be delivered by the United States;

(6) A designation of the proper party to whom possession should be delivered;

(7) A statement by an appropriate legal officer indicating that the transfer is not prohibited under the applicable Federal, State, or local law.

(8) In instances of a joint application by several federal, state, or local agencies, the relative share of each Federal, State, or local agency;

(9) A statement that all fees and expenses necessary to effect transfer of title will be paid by or on behalf of the requesting agency not later than the time of transfer; and

(10) An assurance that, if requested to do so, a report will be provided as to the actual use of any transferred property or proceeds.

d. The requesting agency must certify that the information contained in 3(c)(2-7) above is true and correct.<sup>1</sup>

e. Property will be transferred to state or local agencies only in cases where the tangible property or cash will be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, resulting in an increase of law enforcement resources for that specific State or local agency.

f. An information copy of any request will be forwarded by the Department investigative bureau to the United States Attorney in the district where the transfer request originated.

## 4. Procedure for Processing Requests for Equitable Transfer

a. In all cases, the Department investigative bureau field unit receiving the request will prepare a written report that will evaluate the degree of assistance provided by the requesting agency or agencies in the underlying investigation. Such a report shall be prepared and forwarded to the Department investigative bureau headquarters within ten days of receiving the request absent unusual circumstances. Within five days of receipt the Department investigative bureau headquarters will forward a copy of the request to the Director of the United States Marshals Service.

b. In determining the equitable share for a participating Federal, State, or local agency, the governing factor to be considered is the time and effort contributed by each such agency participating directly in the investigation or other law enforcement activity which led directly or indirectly to the seizure or forfeiture of the property. If the Federal investigative effort is ten percent or less, the determining official will allocate ten percent to the Federal government to compensate for its administrative role and divide the participating agency shares from the remaining ninety percent. If the Department's investigative effort is more than ten percent, the sharing percentages will be based strictly on the contribution by the agency or agencies. This "ten percent rule" will not alter the ability of the United States Marshals Service to recover costs directly from participating agencies or affect their ability to pay appropriate costs from the

Assets Forfeiture Fund. For purposes of practicality, the "ten percent rule" does not apply to the transfer of forfeited assets that are not readily divisible, such as a single conveyance.

c. The allocation based on time and effort may be adjusted based upon the following additional, but secondary, factors:

(1) Whether the agency originated the information that led to the ultimate seizure, and whether the agency obtained such information by use of its investigative assets, rather than fortuitously;

(2) Whether the agency provided unique or indispensable assistance;

(3) Whether the agency initially identified the asset for seizure;

(4) Whether or not the state or local agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to State or local law; and

(5) Whether or not the state or local agency could have achieved forfeiture under State law, with favorable consideration given to a State or local agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

Decision-makers should seldom increase a time and effort allocation by more than 50% because of these additional factors, but, if they do so, must carefully and precisely explain and justify in the decision document their decisions based on unusual circumstances.

d. Investigative work performed by district attorney or State attorney general personnel (including work done by police personnel detailed to prosecutors' offices) will be considered in calculating equitable shares. A state or local prosecutor's office is eligible for transfers of forfeited property based on such investigative effort in the case, to the extent such an office is allowed to receive money directly from the Federal government or have such money credited to its budget under State or local law.

e. The head of the Department investigative bureau may place tangible property forfeited administratively or judicially into official use in cases in which a Federal, State, or local agency has filed a request for an equitable share of that property.

(1) In making this decision, the head of the Department investigative bureau must consider the following factors:

(a) The relative needs of both the requesting law enforcement agency and the Department investigative bureau for the particular asset;

<sup>1</sup> Notwithstanding the additions in section (c) and (d), current DAG-71 forms may still be used until October 1, 1987, and the information provided may be sufficient to warrant an order of equitable transfer.



(b) The uniqueness of the asset and the likely ability to secure such an asset by other seizures in the near future;

(c) The relative significance of the requesting law enforcement agency's participation in the case, as well as all the other factors pertinent to the determination of equitable distribution as set forth in Part III.D.4.b. and c. above;

(d) The potential of, or likelihood that, the requesting agency will be eligible for an equitable share of property from additional seizures arising from the same investigation or from other seizures in the near future;

(e) The impact that a decision to place the property into official use might have on Federal, State, and local relations in that District; and

(f) The past history, volume, and value of previous equitable transfer to the Federal, State, or local agency.

#### 5. Decision-Making Authority for Determining Equitable Transfer

a. The equitable distribution of assets forfeited in an administrative proceeding with an appraised value of \$200,000 or less will be determined by the head of the Department investigative bureau.

(1) The Department investigative bureau's field unit shall forward its report and recommendation to the bureau head for decision.

(2) In making this decision, the head of the Department investigative bureau will consider the report and recommendation forwarded by the field unit and issue to the requesting agency a written ruling on the request.

(3) A copy of the decision document will be forwarded to the United States Attorney, or to the Criminal Division Section Chief in a Department of Justice Criminal Division case, and to the Director, United States Marshals Service.

(4) A copy of the decision document will be made available upon request to the Director, Asset Forfeiture Office, Criminal Division.

b. In the case of assets forfeited in an administrative proceeding with an appraised value greater than \$200,000 and with all judicially forfeited assets, the evaluation and recommendation will be forwarded through the Asset Forfeiture Office to the appropriate United States Attorney or to the Criminal Division Section Chief in a Criminal Division case.

(1) The equitable distribution of assets forfeited in a judicial proceeding with an appraised value of \$200,000 or less will be determined by the United States Attorney or the Criminal Division Section Chief.

(2) In making this decision, the United States Attorney or Criminal Division Section Chief will consider the reports and recommendations forwarded by the head of the Department investigative bureau and will consult with the United States Marshals Service.

(3) The decision document shall be returned to the Director, Asset Forfeiture Office, who will forward the document to the Director, United States Marshals Service, and forward a copy to the Department investigative bureau.

c. In the case of property forfeited in a single proceeding with an appraised value greater than \$200,000, the United States Attorney or Criminal Division Section Chief will forward the evaluation and recommendation of the Department investigative bureau, along with his own recommendation, to the Assistant Attorney General of the Criminal Division, through the Asset Forfeiture Office, who will determine the equitable distribution of those assets if they aggregate less than \$750,000.

(1) In making this decision, the Assistant Attorney General of the Criminal Division will consider the reports and recommendations forwarded by the head of the Department investigative bureau and the United States Attorney or Criminal Division Section Chief and will consult with the United States Marshals Service.

(2) The decision document will be forwarded by the Director, Asset Forfeiture Office, to the United States Marshals Service with copies to the Department investigative bureau, and the United States Attorney or Criminal Division Section Chief.

d. The Associate Attorney General will make the final determination on the equitable sharing of assets forfeited in a single proceeding with an appraised value of \$750,000 to \$2,000,000. The Deputy Attorney General will make the final determination on the equitable sharing of assets forfeited in a single proceeding with an appraised value of \$2,000,000 or higher.

(1) The request will be processed as in 5.c. above, except that the Assistant Attorney General, Criminal Division, will recommend, to the Deputy Attorney General through the Associate Attorney General, or to the Associate Attorney General, as the case may be, the appropriate equitable distribution of such assets.

(2) The decision document will be returned to the Director, Asset Forfeiture Office, who shall forward it to the Director, United States Marshals Service, and shall copy the United States Attorney or Criminal Division Section Chief, and the Department investigative bureau.

e. In all cases in which judicially forfeited property is located in a judicial district other than where the judicial proceedings are taking place, the party determining the equitable distribution must consult with the respective United States Attorneys prior to determining equitable distribution.

f. Decision-makers should consult each other in situations where inconsistent decisions are possible in factually related forfeiture proceedings that might jeopardize relations between Federal agencies and State or local law enforcement agencies.

g. Once a forfeiture action is concluded and all necessary forms and evaluations have been received by the designated decision-maker, the decision maker shall endeavor to make his decision within ten days absent unusual circumstances. If a necessary form or evaluation is incomplete as to a material item of information, it is to be returned directly and promptly to the appropriate party for correction and direct return within fifteen days to the decision-maker.

#### 6. Proceeds Placed in the Department of Justice Assets Forfeiture Fund

a. If the federal forfeiture action is concluded successfully, and the property is not placed into official use or transferred to a Federal, State, or local agency, it will be sold and the net proceeds of sale will be placed in the Assets Forfeiture Fund.

b. Forfeited cash will be placed in the Assets Forfeiture Fund.

c. All Department bureaus will promptly notify the United States Marshals Service of any relevant facts affecting seized property. Relevant facts include outstanding bills, invoices, orders of mitigation and remission, orders of transfers to federal, state, or local agencies, orders of designation for official use by Department components, and appraisals. Based upon these and other relevant factors, the United States Marshals Service should appropriately dispose of the property.

#### 7. Disposition of Forfeited Property.

a. State or local agencies may share in seized and forfeited tangible property, and seized and forfeited cash. Federal agencies may receive transfers of tangible property only.

b. Any property that cannot be used for law enforcement purposes must be disposed of in accordance with law.

c. Where tangible property is transferred to qualifying Federal, State, or local agencies, monies from the Assets Forfeiture Fund will not be used to pay liens or mortgages on the property, or to equip the property for law enforcement purposes.



d. The recipient Federal, State, or local agency must pay the liens and mortgages on the forfeited tangible property pursuant to court order or an order of remission or mitigation prior to the transfer of such property.

e. The recipient Federal, State, or local agency may be required to pay direct expenses pertaining to the seizure and forfeiture prior to the transfer of tangible property.

f. In the event of an interlocutory sale of property pending forfeiture, the Director, United States Marshals Service, first must consult with the United States Attorney, Criminal Division Section Chief, or the Director of the Asset Forfeiture Office in the case of judicial forfeitures, or the head of the pertinent Department investigative bureau in the case of administrative forfeitures, to determine the status of any Federal, State, or local law enforcement agency requests for equitable sharing.

#### 8. Transfers to Non-Participating Federal Agencies.

a. All requests by non-participating federal agencies shall be referred to the Director of the United States Marshals Service.

b. In exceptional circumstances, the United States Marshals Service may transfer tangible property to any requesting Federal agency which did not participate in the acts which led to a seizure or forfeiture.

c. In all such cases, the United States Marshals Service shall consult with the Department investigative bureau responsible for the forfeiture. Where such request is from the United States Department of State for transfer to a foreign government by the Department of State under separate authority, and in any other case it deems appropriate, the United States Marshals Service shall consult also with the Asset Forfeiture Office.

d. Careful consideration shall be given to the value of the property requested, its potential benefit to the United States for law enforcement purposes, and its potential benefit to the Department of Justice Assets Forfeiture Fund.

e. A decision to grant such a request must be approved in writing by the Deputy or Associate Attorney General if the property in question is real property of any value or personal property of an aggregate value exceeding \$25,000. A decision to grant a request for property of lesser value must be approved in writing by the Director of the United States Marshals Service.

f. A report on all such transfers shall be prepared by the United States Marshals Service on a quarterly basis

and submitted to the Associate Attorney General.

#### IV. Department of Justice Assets Forfeiture Fund

##### A. Administration of the Fund

1. The Attorney General delegates the administration of the Department of Justice Assets Forfeiture Fund to the United States Marshals Service under the general supervision of the Associate Attorney General. It will operate under the following guidelines and in accordance with Department of Justice financial management policy. The Associate Attorney General shall establish an interagency committee to advise him or her on the general supervision of the Fund and administration of the asset forfeiture program. This committee shall be known as the Asset Forfeiture Policy Advisory Committee.

2. The United States Marshals Service shall prepare an annual report on the Fund in accordance with 28 U.S.C. 524(c)(6). Agencies reimbursed in accordance with the provisions of these guidelines shall provide information as may be requested by the Marshals Service.

3. The United States Marshals Service will also submit to the Associate Attorney General on a monthly basis a financial statement as to the current status of the fund. Copies of the monthly United States Marshals Service statement will be provided to those members of the Asset Forfeiture Policy Advisory Committee with whom the Marshals Service has entered into reimbursement agreements to assist the recipient in making decisions as to the use and transfer of forfeited property.

##### B. Allowable Reimbursements from the Assets Forfeiture Fund

Reimbursements are permitted in two broad categories: asset-specific expenses and program-related expenses. The former take priority over the latter.

1. *Asset-specific expenses.* The following are allowable asset-specific expenses. Expenses identified in a. and b. below, which are termed "management expenses" for the purposes of administering the Assets Forfeiture Fund, have priority over expenses identified in c., d., e., and f., which are termed "contingent expenses" for the purposes of administering the Assets Forfeiture Fund. These, in turn, have priority over payments identified in g., h., and i. below, which are management expenses which have been assigned a lower priority.

a. Expenses incurred by the Department of Justice or other agencies

authorized to be reimbursed from the Fund relative to the detention, inventory, safeguarding, maintenance, or disposal of seized or forfeited property, whether incurred on an asset specific or service contract basis;

b. Expenses relative to the detention, inventory, safeguarding, maintenance, or disposal of seized or forfeited property incurred by other Federal, State, and local agencies which assist in the seizure and forfeiture of the property;

c. Payments of orders of mitigation or remission;

d. Payments of valid liens and mortgages pursuant to court order;

e. Expenses incurred for the normal and customary operations of seized or forfeited businesses;

f. Payments of orders of equitable transfer to State or local law enforcement agencies;

g. Payments for contract services directly related to the processing of and accounting for seizures and forfeitures;

h. Expenses related to the storage, protection, and destruction of controlled substances whether incurred on an asset specific or service contract basis;

i. Other expenses incurred by Department investigative bureaus or other Department components in the seizure and forfeiture of the property, including such case-specific expenses as forfeiture case-related travel and subsistence; costs to obtain and transcribe depositions; filing fees; translation and court reporter fees; messenger services; expert witness costs; exhibit graphic services; and other types of such expenses as approved by the Associate Attorney General.

2. *Program-related expenses.* The following are allowable program-related expenses. Item a. is the highest priority type of expense; other items are not listed in any priority order.

a. Expenses for the purchase or lease of ADP equipment, and related services, at least 90% of whose use will be dedicated to seizure or forfeiture-related record-keeping;

b. Payments by authorized Department investigative agents for the purchase of controlled substances (identified by 21 U.S.C. 812) as evidence in cases involving violations of the Controlled Substances Act or the Controlled Substances Import and Export Act; (See Part H, *infra*);

c. Expenses incurred to equip any conveyance (whether acquired by forfeiture, purchase, or lease) for drug law enforcement functions; (See Part I, *infra*);

d. Payment of awards in recognition of information or assistance given to a Department investigative bureau



pursuant to 28 U.S.C. 524(c)(1)(B); 28 U.S.C. 524(c)(1)(C); or 21 U.S.C. 881(e)(2)(A)(ii); (See Part G, *infra*);

e. Expenses incurred for training related to the execution of seizure or forfeiture-related responsibilities;

f. Expenses incurred for printing program-related training material, such as manuals or handbooks. (Costs for printing legal notices and other case or asset-specific printing costs are considered asset-specific expenses as described in subsection B.1.a. above.)

3. Reimbursement for expenses in categories 1.g., 1.h., and 2. shall not exceed the lesser of \$100 million or whatever amount is authorized by statute in any one fiscal year.

#### C. Limitations on Use of the Fund

1. The Department of Justice Assets Forfeiture Fund shall not be used to pay any of the following:

a. Salaries of Federal government employees;

b. Expenses in connection with the seizure, detention, and forfeiture of property where the seizure was effected by a Customs officer or where custody was maintained by the Customs Service, in which case the Customs Assets Forfeiture Fund is available for payment of expenses; or

c. Where property is transferred to state or local law enforcement agencies:

(1) Liens or mortgages on the property; or

(2) Payments to equip the property for law enforcement purposes.

2. Liens and mortgages shall be paid from the Fund only pursuant to an order of remission or mitigation or an order of the court, and when the payment of the lien from the Fund is beneficial to the United States. Otherwise, such amounts shall be paid from the proceeds of the sale of forfeited property. Such payments are beneficial to the United States in two circumstances:

a. Where payment prior to sale will improve the Government's ability to convey title of the property;

b. Where the property is to be placed into official use by a Department investigative bureau or other agency.

3. The United States Marshals Service generally may not pay the claims of unsecured creditors from the Fund, particularly if such payment may jeopardize the legitimate claims of existing lienholders. However, if the United States Marshals Service determines that it is necessary to recognize and satisfy the legitimate claims of unsecured creditors for debts incurred within thirty days before seizure in order to preserve the continued operation of a seized

business, it may do so for the following debts:

a. Payment of reasonable salaries and benefits of employees not believed to have been involved in the unlawful activities giving rise to forfeiture and not having an ownership interest in the firm;

b. Payments to third party contractors for goods or services essential to carry on the business of the firm and who continue to provide those goods or services as a regular matter; and

c. Utilities.

All other claims of unsecured creditors shall be determined by the Asset Forfeiture Office under regulations governing the procedures for remission or mitigation of forfeiture contained in 289 CFR 9.1-9.7 and/or by the court.

#### D. Payment of expenses

1. Expenses incurred by the United States Marshals Service will be paid by Marshals Service district offices from the Fund, in accordance with standard Marshals Service financial management and accounting policies and procedures.

2. Obligations incurred by other agencies will be reimbursed on a monthly basis (where practicable) from the Fund to the agency incurring the costs by means of an inter-agency fund transfer, using Standard Form 1081 (SF-1081), pursuant to a properly executed Reimbursement Agreement Between Agencies (Form DOJ-216).

3. It is the responsibility of the agency incurring the obligation to prepare the DOJ-216 and SF-1081 forms and obtain proper authorization. Each DOJ-216 and SF-1081 form will identify the appropriation to be reimbursed from the Fund.

4. Approved DOJ-216's and SF-1081's will be registered upon receipt at the Marshals Service. Properly authorized requests (SF-1081's) will be processed for payment in order of registration. The Marshals Service will approve the transfer of funds to the appropriation identified if sufficient funds are available, as defined in E.2. below.

5. If an amount requested is in excess of an amount available, as defined in E.2. below, the Marshals Service will not process the request, but will advise the requesting agency of the reason. The Marshals Service and the requesting agency should attempt to agree on deferral or cancellation of the request, as appropriate.

6. If the Marshals Service and the requesting agency cannot agree on deferral or cancellation of the request, the Marshals Service shall inform the Associate Attorney General of such disagreement and provide its recommendation for delayed payment or

other appropriate action. The Marshals Service shall provide notice of the action taken by the Associate Attorney General to the agency submitting the SF-1081.

#### E. Priority Payments

1. Department policy is that reimbursement of asset-specific expenses has priority over reimbursement of program-related expenses. A minimum balance of ten million dollars (\$10 million) will be maintained in the Fund to ensure the reimbursement of asset-specific expenses.

2. Requests for reimbursement for program-related expenses submitted to the Marshals Service under the terms of a reimbursement agreement pursuant to subsection F. below will be processed if:

a. a sufficient amount remains under a current year reimbursement agreement to cover the requested reimbursement; and

b. the Fund balance exceeds by at least \$10 million the amount of the request.

#### F. Preparation of Reimbursement Agreements

1. The Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Marshals Service, the Immigration and Naturalization Service, the United States Postal Service, the Executive Office for United States Attorneys, the Criminal Division, and any other agency which anticipates requesting reimbursement for expenses from the Department of Justice Assets Forfeiture Fund will prepare estimates of anticipated expenditures and, after coordination with, and review by, their internal budget and finance staffs, submit them to the Asset Forfeiture Policy Advisory Committee at least three months prior to the fiscal year in which the expenses are anticipated.

2. Anticipated requests for reimbursements shall be divided into each of the separate categories set forth in Parts B.1. and 2. above.

3. The Asset Forfeiture Policy Advisory Committee will evaluate the estimates and recommend a budget for program-related expenses and estimates for asset-specific expenses to the Associate Attorney General.

4. Members of the Asset Forfeiture Policy Advisory Committee may submit to the Associate Attorney General, concurrent with the Committee's recommendations, minority recommendations.

5. The Associate Attorney General will approve a budget for program-related expenses and estimates for



asset-specific expenses, if possible, prior to the new fiscal year, which will form the basis for authorizing the establishment of reimbursement agreements between the United States Marshals Service, as administrators of the Fund, and the appropriate agency head or his designee. The budget and the estimates may be for periods of time less than one year (e.g., six months). The Associate Attorney General, or the Committee, retains authority to approve specific types of reimbursement expenses on an individual basis.

6. It is not permissible for a recipient of reimbursement funds to receive funds for reimbursement of program-related expenses in excess of that authorized in the budget for a specific program-related category or in variance with any other limitations imposed by the budget or the Associate Attorney General for program-related expenses. Requests for augmentation or change must be approved by the Associate Attorney General.

7. Any agency seeking previously unanticipated reimbursement of asset-specific expenses in excess of the amount authorized in the approved estimates for a specific category or in variance with any other limitations imposed by the approved estimates or the Associate Attorney General for asset-specific expenses shall advise the Asset Forfeiture Policy Advisory Committee as soon as the need for such reimbursement is anticipated.

8. The Asset Forfeiture Policy Advisory Committee may recommend adjustments to the budget for program-related expenses and the approved estimates for asset-specific expenses during the fiscal year. The Associate Attorney General may order adjustments to the approved estimates and the budget during the fiscal year based either on appeals, recommendations of the Committee, or his or her own decision.

#### G. Payments of Awards

1. Application for awards will be accepted on behalf of any individual. The term "individual" encompasses corporations and associations.

2. Awards will not be paid to state or local government entities, or to employees or agents thereof. Any information or assistance provided by a state or local entity will be compensated under rules governing "equitable transfers."

3. Awards pursuant to 28 U.S.C. 524(c)(1)(B) or (C) will be paid only after disposition of forfeited property.

4. Awards pursuant to 28 U.S.C. 524(c)(1) (B) or (C) may not exceed \$150 thousand or one-fourth the "amount

realized by the United States from the property forfeited," whichever is less.

a. If forfeited property is sold, then the "amount realized by the United States from the property forfeited" is the gross sale proceeds *minus* management expenses paid from the Fund.

b. If forfeited property is retained for official use, the "amount realized by the United States from the property forfeited" is the value of the property at the time of seizure *minus* management expenses paid from the Fund.

5. All applications for awards will be directed to the field office of the Department investigative bureau responsible for processing the forfeiture. Non-DOJ agencies (e.g., task force members such as IRS) should be instructed to direct any inquiries concerning these awards to the Department investigative bureau responsible for processing the forfeiture.

6. The investigative bureau field unit receiving or initiating an application for an award will prepare a written report that will evaluate the value of the information or assistance provided by the applicant and recommend an amount to be paid.

7. If more than one application for an award pursuant to 28 U.S.C. 524(c)(1) (B) or (C) is received in a single action for forfeiture, the applications should be handled in a consolidated manner. Decisions on all applications should be made at the same time, and should consider the comparative value of information or assistance provided by each applicant and the aggregate amount of award(s) to be made.

8. Requests for reimbursement for awards pursuant to 28 U.S.C. 524(c)(1)(B) shall:

a. Identify the property or properties, including agency and/or federal district court case numbers; and

b. Identify the recommended dollar amount of the award.

9. Approval of awards will be in accordance with 28 U.S.C. 524(c)(2) and any subsequent delegations of authority.

#### H. Purchase of Evidence

1. Only DEA and FBI may request amounts to be reimbursed for the purchase of evidence.

2. Approval of amounts for the purchase of evidence will be in accordance with 28 U.S.C. 524(c)(3) and any subsequent delegations of authority.

3. The investigating agency is responsible for control over the release of cash to agents and for informing agents of the responsibility to account for the use and recovery of the cash.

4. If a participating agency recovers part or all of the monies that are used to purchase evidence for which it has

obtained reimbursement from the Fund, the recovered monies will be credited to the Fund.

#### I. Payments to Equip Forfeited Conveyances for Drug Law Enforcement Functions

1. Decisions to retrofit a conveyance for drug law enforcement functions shall be made by the organizational component within the agency which is responsible for management of the conveyance to be retained.

2. Unreasonable amounts shall not be spent on equipping (retrofitting) forfeited, leased, or owned conveyances for drug law enforcement purposes. Extensive work to convert a conveyance to heavy duty use should be limited by considering the estimated useful life of the conveyance and the availability of similarly equipped conveyances.

#### V. Discontinuance of Federal Forfeiture Actions

##### A. Deferral of Federal Judicial Forfeiture Proceedings

1. A decision to forego a Federal judicial forfeiture proceeding against any seized asset in favor of a State or local forfeiture proceeding requires the personal approval of the United States Attorney after review of the evaluation and recommendation of the concerned Department investigative bureau.

2. In making this decision, the United States Attorney must consider the financial status of the Department of Justice Assets Forfeiture Fund.

3. Judicial forfeitures foregone in favor of state or local proceedings are to be reported by the United States Attorney in writing, within five days, to the Director, Asset Forfeiture Office, Criminal Division, United States Department of Justice, Washington, DC 20530.

##### B. Deferral of Federal Administrative Forfeiture Proceedings

1. A decision to forego a federal administrative forfeiture proceeding against any seized asset in favor of a State or local forfeiture proceeding requires the approval of the head of the Department investigative bureau.

2. In making this decision, the head of the Department investigative bureau must consider the financial status of the Assets Forfeiture Fund and, where appropriate, consult with the United States Marshals Service in that regard.

3. Department investigative bureaus must develop procedures for recording these decisions and providing reports as required.



# VI. United States Customs Service Forfeitures

A. Pursuant to Title 28 United States Code, Section 524(c), all proceeds from the forfeiture of property under any law enforced or administered by the Department are to be deposited in the Department of Justice Assets Forfeiture Fund, except as specified in 28 U.S.C. 524(c)(4) and except to the extent that the seizure was effected by a United States Customs Service officer or that custody was maintained by the Customs Service, in which case the provisions of 19 U.S.C. 1613a (Customs Forfeiture Fund) shall apply.

B. To the extent that the United States Marshals Service may have the authority and the capacity to do so, and pursuant to agreement between them and the United States Marshals Service and the Customs Service, the United States Marshals Service may store and maintain seized property for the Customs Service.

1. Where the United States Marshals Service maintains custody of property seized by a Customs officer, the Marshals Service shall seek reimbursement from the Customs Service for the expenses of such custody prior to the deposit of the net proceeds into the Customs Forfeiture Fund.

2. In instances where proceeds are to be deposited in the Department of Justice Assets Forfeiture Fund and the Customs Service, as a substitute custodian, has maintained custody of property seized by the Department, the Department will reimburse the Customs Service for the expenses of such custody.

C. Requests for transfers of forfeited property by federal agencies, or by participating state and local law enforcement agencies, in forfeitures where the seizure was effected by a Customs officer or custody was maintained by the Customs Service should be directed pursuant to 19 U.S.C. 1616 to the Customs Service for evaluation and forwarding to the Assistant Secretary of Treasury for Enforcement with an information copy to the United States Attorney in the district of seizure.

D. In the event of an unresolved dispute concerning whether a given forfeiture constitutes a Customs or Department forfeiture for purposes of cash or proceeds disposition, or for Federal, State, and local transfers, the Associate Attorney General and the Assistant Secretary of Treasury for Enforcement shall resolve the issue. Where appropriate, they may submit the issue to the Organized Crime Drug

Enforcement Task Force Working Group for recommendation.

Date: April 9, 1987.

Edwin Meese III,  
Attorney General.

Date: November 30, 1987.

Brad Cates,  
Director, Asset Forfeiture Office.  
[FR Doc. 87-28377 Filed 12-9-87; 8:45 am]  
BILLING CODE 4410-01-M

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

**Background:** The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

**List of Recordkeeping/Reporting Requirements Under Review:** As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

**Comments and Questions:** Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer,

Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503, (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Occupational Safety and Health Administration.

Survey to Determine the Effects of Updating the Permissible.

Exposure Limits (PEL's) for Substances Regulated Under 29 CFR 1910.1000.

Other.

Businesses or other for profit; Small businesses or organizations 14,906 responses; 4,000 hours.

This information request is to support the Regulatory Impact Analysis of the PEL revisions for about 400 hazardous chemicals. Secondary data sources will identify those businesses who use significant amounts of these chemicals; and information on process/exposure units, engineering controls, personal protective equipment, and general firm characteristics will be sought.

Occupational Safety and Health Administration.

Feasibility Determination—Lead Remand Industries.

Other.

Businesses or other for profit. 66 responses; 122 hours.

This information for which this request has been submitted will further develop the record for the determination of feasibility in the Lead Remand rulemaking. Information will be requested of businesses manufacturing lead containing products and will consist of process, exposure, dust and fume control, and financial data.

Signed at Washington, DC this 3rd day of December, 1987.

Marizetta L. Scott,

Acting Departmental Clearance Officer.

[FR Doc. 87-28336 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-26-M



**Employment and Training Administration**

[TA-W-20,030]

**Colt Industries, Inc., Holley Automotive Division, Paris, TN; Negative Determination Regarding Application for Reconsideration**

By an application dated November 1, 1987, one of the petitioners requested administrative reconsideration of the Department's negative determination for trade adjustment assistance for workers at Colt Industries, Incorporated, Holley Automotive, Division, Paris, Tennessee. The denial notice was signed on October 2, 1987 and published in the Federal Register on October 23, 1987 (52 FR 39716).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner claims that the production at Paris was transferred to another corporate plant in Bowling Green, Kentucky which produced carburetors mainly for the other Big Three Automakers, one of which is alleged to be purchasing imported carburetors from Mexico. It is also claimed that the Paris plant closed because they could not produce a fuel injection system that could compete with foreign made systems.

Investigation findings show that the Paris plant produced original equipment carburetors primarily for one of the Big-Three automakers. The major customer reduced its purchases from the Paris plant because it switched to a different technology. That customer converted most of its car line to fuel injection systems. A change in technology would not provide a basis for certification under the Trade Act of 1974. Carburetor production at Paris was not significant for the remaining automaker who is alleged to be purchasing imported carburetors. Workers at Paris were not separately identifiable by type of product.

The Paris plant closed in March, 1987 and the remaining carburetor production was transferred to another domestic corporate plant. A domestic transfer of

production would not form a basis for certification.

Workers at the Paris plant never produced fuel injection systems. Concerning the claim that Colt Industries could not produce a competitive fuel injection system with those made overseas, section 222(2) of the Group Eligibility Requirements states that sales and/or production at the workers' firm must have decreased absolutely. Accordingly, a potential decline in sales or production would not provide a basis for certification.

**Conclusion**

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 24th Day of November 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-28337 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-30-M

**Mine Safety and Health Administration**

[Docket No. M-87-247-C]

**Big Diamond Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Big Diamond Coal Company, 285 Main Street, Joliet-Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescuers) to its No. 1 Vein Slope (I.D. No. 36-07554) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such persons for one hour or longer.

2. The mine is always damp to wet. There is only one piece of electrical equipment, which is a small pump located at the foot of the slope.

3. Petitioner states that the distance from the mine portal to the actual working face is less than 2,000 feet. The mine can be evacuated in less than 15 minutes.

4. Petitioner states that the devices are too heavy, bulky, and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

5. Sections of the mine are subjected to freezing temperatures making constant availability of the devices questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

6. For these reasons, petitioner requests a modification of the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Dated: December 1, 1987

[FR Doc. 87-28326 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-248-C]

**Big Diamond Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Big Diamond Coal Company, 285 Main Street, Joliet-Tremont Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 1 Vein Slope (I.D. No. 36-07554) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are



nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes. Particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,  
*Acting Associate Assistant Secretary for Mine Safety and Health.*

Dated: December 1, 1987.

[FR Doc. 87-28327 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-249-C]

#### Big Diamond Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Big Diamond Coal Company, 285 Main Street, Joliett-Tremont, Pennsylvania 17981 has filed a petition to modify the

application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Vein Slope (I.D. No. 36-07554) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,  
*Acting Associate Assistant Secretary for Mine Safety and Health.*

Dated: December 1, 1987.

[FR Doc. 87-28328 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-232-C]

#### Charity Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Charity Coal Co., Inc., P.O. Box 267, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 (I.D. No. 15-15942) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The No. 1 mine is in the Pond Creek seam ranging from 42 to 47 inches in height, with ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the cabs or canopies could strike and destroy roof support and the power line system. The cabs or canopies would also limit the equipment operator's visibility and seating position, creating the chances for an accident.

4. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,  
*Acting Associate Assistant Secretary for Mine Safety and Health.*

Dated: December 1, 1987.

[FR Doc. 87-28329 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-255-C]

#### Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires,



high-voltage cables and transformers) to its Shoemaker Mine (I.D. No. 46-01436) located in Ohio County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. Petitioner states that the longwall mining systems have continued to increase in total connected horsepower. The system proposed will have over 1,800 connected horsepower. In order to supply power to such a mining system from a power system limited to 1,000 volts, the following problems arise:

(a) There is a very small safety factor to account for normal in-mine wear of the circuit breaker;

(b) The ampacity requirements at 1,000 volts are such that very large and heavy cables must be used. Accident information indicates that a large number of electrical-related injuries are strains and sprains incurred during heavy cable handling; and

(c) In order to maintain proper voltage at the motor terminals, cables must also be sized to minimize the voltage drop in the cable. Cables used on 1,000-volt systems must be much larger and heavier than those used on 4,000-volt systems.

3. As an alternate method, petitioner proposes to use high-voltage (4,160 volt) cables to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

*Acting Associate Assistant Secretary for Mine Safety and Health.*

Dated: December 1, 1987.

[FR Doc. 87-28330 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-242-C]

#### **Dominion Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard**

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.326 (return aircourses and belt haulage entries) to its Dominion No. 4 Mine (I.D. No. 44-06417) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. Petitioner will be using a split ventilation system in lieu of the sweep type ventilation system currently in use to enhance the efficiency of ventilating the face areas and to provide a better environment in which to work.

3. As an alternate method, and in order to maximize the efficiency of the split ventilation system, petitioner proposes to use air from belt haulage entries to ventilate active working places.

4. In support of this request, petitioner proposes to install a CO type monitoring system with specific conditions as outlined in the petition.

5. In further support of this request, petitioner states that—

(a) Split ventilation is a more efficient method of ventilation an active working section than sweep ventilation because it minimizes the necessity for mobile face equipment to travel through curtain, thus enhancing safety; provides for a more dust free environment in which to work; and requires one additional row of brattice, which will provide an additional isolated travelway; and

(b) CO monitors provide for an effective and reliable way to continually monitor the belt line.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Date: December 1, 1987.

Patricia W. Silvey,

*Acting Associate Assistant Secretary for Mine Safety and Health.*

[FR Doc. 87-28331 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-243-C]

#### **Dominion Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard**

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; minimum requirements; general) to its Dominion No. 4 Mine (I.D. No. 44-06417) located in Buchanan County, Virginia. The Petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-87-242-C), petitioner proposes to use air from belt haulage entries to ventilate active working places.

3. Petitioner will be using a split ventilation system in lieu of the sweep type ventilation system currently in use to enhance the efficiency of ventilating the face areas and to provide a better environment in which to work.

4. As an alternate method, petitioner proposes to install a CO monitoring system to monitor the belts. The CO monitors will be placed along the belt line at intervals not to exceed 2000 feet.

5. In support of this request, petitioner states that—

(a) Split ventilation is a more efficient method of ventilating an active working section than sweep ventilation because it minimizes the necessity for mobile face equipment to travel through curtain, thus enhancing safety; provides for a



more dust free environment in which to work; and requires one additional row of brattice, which will provide an additional isolated travelway; and

(b) CO monitors provide for an effective and reliable way to continually monitor the belt line.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

*Acting Associate Assistant Secretary for Mine Safety and Health.*

Date: December 1, 1987.

[FR Doc. 87-28332 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-244-C]

#### **Dominion Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, shops, and permanent pumps) to its Dominion No. 4 Mine (I.D. No. 44-06417) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. In a separate petition (M-87-242-C), petitioner proposes to use air from belt haulage entries to ventilate active working places, and to install a CO monitoring system.

3. Petitioner will be using a split ventilation system in lieu of the sweep type ventilation system currently in use to enhance the efficiency of ventilating the face areas and to provide a better environment in which to work. It will be necessary to provide transformer

stations along the belt line to supply power to the belt drives and substations to provide power to the mine in general. There will also be a need to set pumps along the belt. Track will be used in the belt entry for travel, however, the track equipment will be battery powered.

4. As an alternate method, petitioner proposes to use air coursing over electrical installations in active working places.

5. In support of this request, petitioner states that—

(a) Split ventilation is a more efficient method of ventilating an active working section than sweep ventilation because it minimizes the necessity for mobile face equipment to travel through curtain, thus enhancing safety; provides for a more dust free environment in which to work; and requires one additional row of brattice, which will provide an additional isolated travelway; and

(b) CO monitors provide for an effective and reliable way to continually monitor the belt line.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

*Acting Associate Assistant Secretary for Mine Safety and Health.*

Date: December 1, 1987.

[FR Doc. 87-28334 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-245-C]

#### **Horsehead Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Horsehead Coal Company, P.O. Box 97, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its No. 1 Slope (I.D. No. 36-06279) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage cars be equipped with automatic couplers.

2. Petitioners states that installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lightweight cars, and the systems of haulage.

3. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

*Acting Associate Assistant Secretary for Mine Safety and Health.*

Date: December 1, 1987.

[FR Doc. 87-28333 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-87-250-C]

#### **Southern Utah Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard**

Southern Utah Fuel Company, P.O. Box P, Salina, Utah 84654 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 1 (I.D. No. 42-00089) located in Sevier County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses and seals be examined in their entirety on a weekly basis.

2. Petitioner states that certain areas of the mine are inaccessible because of two major roof falls. These old workings are comprised of a small area that is completely mined around with active ventilated entries. No harmful gases have been detected in the area and the mine liberates little or no methane.

3. As an alternate method, petitioner proposes that—



(a) A tight stopping line that will isolate seals and the entry from the beltline entry will be established. These areas will be ventilated with a separate split of air to the return by bringing air in at one end of the entry, across the caved area, down past the sealed area, and directly to the return by the use of ventilation tubing across the beltline entry;

(b) Air measuring stations will be established for measuring and evaluating the air ventilating these areas at specific locations. The air measuring stations and approaches to it will be maintained in a safe condition. The quality, quantity, and direction of air flow and methane content will be checked by a certified person, at the measuring stations on a weekly basis. In addition, the return air measuring stations will be monitored using an Atmospheric Monitoring System (AMS); and

(c) Air velocity and methane will be monitored on a continual basis. An alarm will be set to go off if the methane level increases by 0.5 percent and/or if the velocity decreases by 20 percent. Methane gas or other harmful, noxious, or poisonous gases will not be permitted to accumulate in these air ways in excess of the legal limits.

4. Petitioner further states that to rehabilitate and clean up these two major roof falls would be exposing miners to hazardous roof and rib conditions and could cause additional rib hazards along the entry where people are required to travel to make examinations.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,  
Acting Associate Assistant Secretary for  
Mine Safety and Health.

Date: December 1, 1987.

[FR Doc. 87-28335 Filed 12-9-87; 8:45 am]

BILLING CODE 4510-43-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 87-101]

### NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Change in Date of Meeting

**AGENCY:** National Aeronautics and Space Administration.

*Federal Register Citation of Previous Announcement:* 52 FR 44500, Notice Number 87-96, November 19, 1987.

*Previously Announced Times and Dates of Meeting:* December 8, 1987, 8:30 a.m. to 5 p.m. and December 9, 1987, 8:30 a.m. to 12:15 p.m.

*Changes in the Meeting:* Dates changed to January 6, 1988, 8:30 a.m. to 5 p.m. and January 7, 1988, 8:30 a.m. to 12:15 p.m. Meeting location changed to Ames Research Center, National Aeronautics and Space Administration, Building 247, room 201, Moffett Field, CA 94035.

*Contact Person for More Information:* Dr. Randolph A. Graves, Jr., Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2828.

Ann Bradley,

Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.

December 4, 1987.

[FR Doc. 87-28338 Filed 12-9-87; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Privacy Act of 1974; Transfer of Records

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of transfer of records subject to the Privacy Act to the National Archives.

**SUMMARY:** Records retrievable by personal identifiers which are transferred to the National Archives of the United States are exempt from most provisions of the Privacy Act of 1974 (5 U.S.C. 552a) except for publication of a notice in the *Federal Register*. NARA publishes a quarterly notice of the records newly transferred to the National Archives of the United States which were maintained by the originating agency as a system of records subject to the Privacy Act.

**DATE:** Written comments must be received by January 11, 1988.

**ADDRESS:** Comments should be sent to Adrienne C. Thomas, Director, Program Policy and Evaluation Division (NAA), National Archives and Records Administration, Washington, DC 20408.

**FOR FURTHER INFORMATION CONTACT:** Dr. Trudy Peterson, Assistant Archivist for the National Archives, on (202) 523-3130 or (FTS) 523-3130.

#### SUPPLEMENTARY INFORMATION:

In accordance with section (1)(3) of the Privacy Act, archival records transferred from Executive Branch agencies to the National Archives of the United States are not subject to the provisions of the Act relating to access, disclosure, and amendment. The privacy Act does require that a notice appear in the *Federal Register* when records are transferred to the National Archives of the United States. The records of the United States Congress and all United States Courts are exempt from all provisions of the Privacy Act. Consequently, when records retrievable by personal identifiers are transferred from the Congress or the Courts to the National Archives of the United States, the notice in the *Federal Register* does not include these records.

After transfer of records retrievable by personal identifiers from executive branch agencies to the National Archives of the United States, NARA does not maintain these records as a separate system of records. NARA will attempt to locate specific records about the individual. Records in the National Archives of the United States may not be amended, and NARA will not consider any requests for amendment.

Archival records maintained by NARA are arranged by Record Group depending on the agency of origin. Within each Record Group, the records are arranged by series, thereunder generally by filing unit, and thereunder by document or groups of documents. The arrangement at the series level or below is generally the one used by the originating agency. Usually, a system of records corresponds to a series, and this notice uses the series title as the title of the system of records.

The following systems of records retrievable by personal identifiers have been transferred to the National Archives:

1. *System name:* National Archives Record Group 75, Records of the Bureau of Indian Affairs (Department of the Interior), Haskell Indian Junior College Student Records, 1885-1962.

*System location:* National Archives-Kansas City Branch, 2312 East Bannister Road, Kansas City, Missouri 64131.



*Categories of individuals covered by the system:* Student or potential students at Bureau of Indian Affairs schools (including contract schools) and applicants for or recipients of BIA scholarships or educational grants, 1885-1962.

*Routine uses of records maintained in the system, including categories of users and the purpose of such uses:* Reference by Government officials, scholars, students, and members of the general public. The records in the National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a (1)(3). Further information about uses and restrictions may be found in 36 CFR Part 1256 and in the General Notice published by the National Archives and Records Administration in 40 FR 54786 (October 2, 1975).

*Categories of records in the system:* Student case files, attendance and performance records, banking records and expenditures of tribal benefit funds and applications for grants and grant agreements.

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:*

- a. Storage: Paper records stored in boxes.
- b. Retrieval: Arranged alphabetically by name of student.
- c. Safeguards: Records are kept in locked stack areas accessible only to authorized personnel of the National Archives.
- d. Retention and disposal: Records are retained permanently.

*System manager and address:* The system manager is the Assistant Archivist for the National Archives, National Archives and Records Administration, 8th and Pennsylvania Avenue, NW, Washington, DC, 20408.

*Notification Procedures:* Individuals desiring information from or about these records should direct inquiries to the system manager.

*Records access procedures:* Upon request, the National Archives will attempt to locate specific records about individuals and will make the records available subject to the restrictions set forth in 36 CFR Part 1256. Enough information must be provided to permit the National Archives to locate the records in a reasonable amount of time. Records in the National Archives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the *Guide to the National Archives of the United States*, which is sold by the Superintendent of Public Documents,

Government Printing Office, Washington, DC 20402, and may be consulted at the National Archives research facilities listed in 36 CFR Part 1253.

Dated: December 3, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87-28295 Filed 12-9-87; 8:45 am]

BILLING CODE 7515-01-M

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities Under OMB Review

The following package is being submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Subject:* Semiannual Financial and Statistical Report, NCUA 5300 (3133-0004)

*Abstract:* 741.10 Financial and Statistical and Other Reports—the regulation requires each federally insured credit union to submit to the NCUA a completed Financial and Statistical Report NCUA 5300 for midyear and year-end.

*Frequency:* A credit union is required to completed and submit the financial and statistical report twice each year—as of December 31 and June 30.

*Burden:* The average time to complete each report is 45 minutes.

*Respondents:* All federal credit unions, federally insured state chartered credit unions and participating non-federally insured state chartered credit unions complete and will submit the subject report.

*OMB Desk Officer:* Robert Fishman

Copies of the above information collection clearance package may be obtained by calling the National Credit Union Administration, Administrative Office on (202) 357-1055.

Written comments and recommendations for the listed collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: Robert Fishman.

Date: December 1, 1987.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 87-28290 Filed 12-9-87; 8:45 am]

BILLING CODE 7535-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-327 and 50-328]

### Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 56—Containment Isolation for the Vacuum Relief Lines—to the Tennessee Valley Authority (the licensee) for the Sequoyah Nuclear Plant, Units 1 and 2, located at the licensee's site in Hamilton County, Tennessee. The exemption was requested by the licensee by letter dated February 3, 1987, supplemented on April 8, 1987.

#### Environmental Assessment

##### Identification of Proposed Action

The exemption would permit the containment isolation for the vacuum relief penetrations lines to be provided by two outboard isolation valves located outside of the primary containment shell. GDC 56 requires that each line that is connected directly to the containment atmosphere and penetrates primary reactor containment shall be provided with containment isolation valves. The type of valves, automatic or locked closed, and the location of valves, one inside and one outside containment, are specified in GDC 56. These requirements must be met unless it can be demonstrated that the containment isolation provisions for a specific class of lines are acceptable on some other defined basis. Sequoyah Nuclear Plant, Units 1 and 2 provide a design that complies with GDC 56 except for valve location only. Therefore, the exemption is specific to valve location only.

##### The Need for the Proposed Action

The proposed exemption is needed to permit the licensee to operate the plant without being in violation of the Commission's regulations.

##### Environmental Impact of the Proposed Action

The proposed exemption is from the valve location requirements as specified in GDC 56. The three vacuum relief lines are required to relieve pressure from the primary annulus into containment, in the event of an inadvertent actuation of containment spray (CS) or air return fan



operation so as to prevent unacceptable pressure differentials from developing across the containment shell. If containment atmospheric leakage should occur, the leakage is into the annulus not to the environment. This leakage would be collected and filtered in a controlled manner. Consequently, the radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

#### *Alternatives to the Proposed Action*

Since we have concluded that the environmental effects of the proposed action are negligible, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of the operation of the plant and would result in the licensee being in violation of the Commission's regulations.

#### *Alternative Use of Resources*

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of Sequoyah Nuclear Plant, Units 1 and 2," dated July 1974.

#### *Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

#### *Finding of No Significant Impact*

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated February 3, 1987, and supplemented April 8, 1987 which are available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Bethesda, Maryland this 3rd day of December, 1987.

For The Nuclear Regulatory Commission.

Gary G. Zech,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 87-28381 Filed 12-9-87; 8:45 am]

BILLING CODE 7590-01-M

### **Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact**

[Docket Nos. 50-327 and 50-328]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 55—Containment Isolation for the Residual Heat Removal (RHR) system loop supply line—to the Tennessee Valley Authority (the licensee) for the Sequoyah Nuclear Plant, Units 1 and 2, located at the licensee's site in Hamilton County, Tennessee. The exemption was requested by the licensee by letter dated February 3, 1987, supplemented on April 8, 1987.

#### **Environmental Assessment**

##### *Identification of Proposed Action*

The exemption would permit containment isolation valves for the RHR loop supply line penetrating containment to be provided by a check valve and a remote manual motor-operated valve, both inside containment. GDC 55 requires that each reactor coolant pressure boundary line penetrating the primary reactor containment be provided with containment isolation valves. The combination of valves is to be one inside and one outside containment and either automatic or locked closed. These requirements must be met unless it can be demonstrated that the containment isolation provisions for a specific class of lines are acceptable on some other defined basis.

The Sequoyah Nuclear Plant, Units 1 and 2 design complies with the redundancy requirements of GDC 55 but does not meet the requirements for valve location. Therefore, an exemption is needed from GDC 55 specifically for containment isolation valve location.

#### *Need for the Proposed Action*

The proposed exemption is needed to permit the licensee to operate the plant without being in violation of the Commission's regulations.

#### *Environmental Impact of the Proposed Action*

The proposed exemption is from the valve location requirements as specified in GDC 55. The RHR loop supply line is required to supply water to the reactor coolant system loop 1 and 3 hot legs during normal operation. It is also used for post-accident Emergency Core Cooling System injection/recirculation. Since the existing redundant isolation valves are inside containment, any leakage occurring would be to the containment and not to the environment. This leakage would be collected and filtered in a controlled manner. Consequently, the radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

#### *Alternatives to the Proposed Action*

The alternative to the proposed action would be to require the licensee to install a remote manual or automatic power-operated valve outside containment in the RHR loop supply line.

The licensee has estimated that modifications to the system to bring it into compliance with GDC 55 would result in a minimum personnel radiological exposure of 15 person-rem to the work crew.

Since NRC staff has concluded that the environmental effects of the proposed action are negligible, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of the operation of the plant and would result in the licensee incurring the radiological cost described above or



being in violation of the Commission's regulations.

#### *Alternative Use of Resources*

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of Sequoyah Nuclear Plant, Units 1 and 2," dated July 1974.

#### *Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

#### *Finding of No Significant Impact*

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's request for exemption dated February 3, 1987, as supplemented April 8, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Bethesda, Maryland this 3rd day of December, 1987.

For The Nuclear Regulatory Commission.  
Gary G. Zech,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 87-28382 Filed 12-9-87; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### **Demonstration Project; An Integrated Approach to Pay, Performance Appraisal, and Position Classification**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of amendment of Navy Personnel Management Demonstration Project plan to include clerical/assistant positions at the Naval Weapons Center, and to provide for recruitment bonuses.

**SUMMARY:** This notice provides for establishment of a career path, pay bands, and series coverage for clerical/assistant positions at the Naval Weapons Center (NWC) China Lake, California. Clerical/assistant positions at the Naval Ocean Systems Center (NOSC), San Diego, California, were

entered into the project in September, 1982. The notice also provides for the addition of a recruitment bonus feature for especially difficult-to-fill positions at both Centers.

**EFFECTIVE DATE:** Pay period beginning November 22, 1987.

**FOR FURTHER INFORMATION CONTACT:** (1) In San Diego, California, Susan Rainville (619) 225-2131; (2) in China Lake, California, Robert M. Glen (619) 939-3196; (3) in Washington, DC, Paul R. Thompson (202) 632-6164.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Office of Personnel Management (OPM) approved a demonstration project, "An Integrated Approach to Pay, Performance Appraisal, and Position Classification for More Effective Operation of Government Organizations," and published the final project plan in the *Federal Register* on Friday, April 18, 1980 (45 FR 26504). Under the section "Types and Numbers of Participating Employees" (45 FR 26513), the approved project plan provides for the addition of other categories of employees as project number limitations and successful experience permit, subject to consultation and agreement with OPM.

The original project plan has been amended twice, to incorporate additional categories of employees as provided for in the original notice, and to otherwise modify the project plan. On July 28, 1981 (46 FR 38660) OPM identified the technician career path by classification level and showed its relationship to grade levels in the General Schedule. Technicians entered the demonstration project on August 23, 1981. In addition, the notice amended procedures for converting employees exiting from the demonstration project to positions in the General Schedule.

On September 24, 1982 (47 FR 42306) OPM approved additional expansion of project coverage and modifications to the project plan. These included:

(a) Establishment of the career path for technical specialists, and entry of administrative and technical specialist employees GS-5 through 11 at both Centers (those GS-12 and above entered previously) and all clericals/assistants at the Naval Ocean Systems Center;

(b) Modification of the Technician Career Path;

(c) Elimination of specific requirements to use certain performance rating titles, and conforming changes;

(d) Combinations of performance rating groups into retention groups for reduction in force;

(e) Revision of the minimum amount of salary increase an employee may receive at the time of promotion; and

(f) Modification of the "Reconsideration of Performance Rating" process to more closely parallel the Navy grievance procedure.

#### **Additional Category of Participating Employees**

Because 5 U.S.C. 47 limits demonstration projects to 5000 employees, NWC's clerical/assistant and supervisory police and firefighting employees were not previously added to the project. Public Law 98-224, enacted March 2, 1984, waived the statutory limit on the number of participants. NWC has therefore established the DG career path for these employees, paralleling the career path in existence for similar employees at NOSC since September, 1982. Addition of these employees will result in the inclusion of virtually all General Schedule employees at both Centers in the demonstration project.

A few employees included in the DG Career Path at NWC are represented by a labor union, the China Lake Police Officers Association (CLPOA). NWC and CLPOA have reached an agreement for including these employees which is in accordance with 5 U.S.C. 4703(f).

#### **Project Plan Modifications**

Time-in-level requirements for promotion between the "A" and "I" levels of all existing career paths at each Center have been removed. This is generally in keeping with current OPM regulations, which do not establish time-in-grade requirements for one-grade promotions to GS-5 or below, the GS grades corresponding to the "A" and "I" levels. For the same reason, no time-in-level requirements are being established for promotion between the DG-A, DG-I and DG-II levels of the new DG Career Path at NWC. (The lower portion of the new DG-II level corresponds to GS-5.) In accordance with the original project plan as amended, there will be time-in-level requirement of one year at NWC for promotion from DG-II to DG-III.

Table 5, showing career paths under the project, has been modified to include the DG Career Path at NWC. The table is further modified to indicate NOSC's authority to adopt NWC's DG Career Path in place of its own, subject to OPM approval.

The compensation provision of the project plan are extended to include authority to pay recruitment bonuses. This authority will be used for selected hard-to-fill jobs in the DP Career Path.



### Review of Proposed Project Modifications

Draft modifications to the Navy demonstration project were presented to OPM staff in a meeting held at OPM on May 21, 1987. Presentations on the proposed Clerical/Assistant Career Path and recruitment bonus were made by NWC and NOSC representatives, respectively. OPM staff members concurred generally with the requested modifications to the project plan. Additional supporting information on career ladders, major occupations, time-in-level requirements, pay progression and the entry process was submitted to OPM on August 25, 1987. The Department of Navy formally submitted the modifications to OPM for approval on September 24, 1987. Preliminary approval was granted by OPM on October 22, 1987, pending the outcome of a public hearing to be held at NWC.

Briefings and meetings with affected clerical/assistant personnel at NWC were held during May and June 1987. Various written materials were also made available to employees there.

### Comments

An informal hearing was held at the Naval Weapons Center in China Lake on October 30, 1987 to give employees an opportunity to comment on the entry of additional employees into the project through establishment of the DG Career Path. The record was left open for written comment until November 6, 1987. No hearing was held at the Naval Ocean System Center because of the minimal impact of the proposed recruitment bonuses on current employees.

Approximately 90 employees attended the hearing. Six attendees made public comments at the hearing; a seventh employee submitted a written statement.

The following is a summary of these comments by subject matter:

1. Two employees stated that career ladders for most or all secretaries should extend to DG-III under the project. However, a third commented that many secretaries who receive good performance ratings will still have more pay potential under the project than previously. There will be a greater chance that secretaries seeking higher pay but wishing to remain as secretaries will be able to do so without changing occupations.

2. Two employees expressed some concern about performance-based pay. One noted that pay decisions would be less mechanical, more dependent on supervisor's decisions, but the system could also give deserving employees a chance to earn more pay. Another employee was concerned about the impact on performance ratings of having a pre-established amount of funds budgeted for performance pay. This would limit the number of high ratings which could be given.

3. One employee recounted in detail the extensive participation by clerical employees in developing and working for establishment of the DG Career Path.

4. One employee noted there had not been RIF at NWC since the project began and wondered how the demonstration RIF procedures would work in practice.

5. One employee expressed concern about the impact of entry into project on employees receiving saved pay.

6. Another employee wondered whether the project would adversely affect NWC's upward mobility program, whereby clerical employees currently receive a special opportunity to move into other career paths.

Comments at the hearing were not so extensive or critical as to warrant delay in establishing the DG Career Path. Most

comments were either favorable or expressed concerns about aspects of the project such as performance-based RIF procedures, saved pay, and pay-for-performance which are already in effect for all career paths. Modification of these systems for DG Career Path only would not be appropriate. Other, more narrowly focused concerns about the proper classification of some secretaries and the impact of the project on the upward mobility program can be accommodated within the project plan, and are being addressed by Center management at its discretion.

U.S. Office of Personnel Management,  
Constance Horner,  
Director.

The demonstration project plan, *An Integrated Approach to Pay, Performance Appraisal, and Position Classification for More Effective Operation of Government Organizations*, published in the *Federal Register* on Friday, April 18, 1980 (45 FR 26504-26543), and amended by Notices published in the *Federal Register* on Tuesday, July 28, 1981 (46 FR 38660-38661), and on Friday, September 24, 1982 (47 FR 42306-42312) is further amended as follows:

1. *Pen and Ink Changes to Promotion Section.* In 45 FR 26519, under the section entitled "Promotions," add a statement after the beginning of the second paragraph which reads: "Minimum time-in-level (T-I-L) requirements will be as follows: Level A to I at both Centers, and DG-I to DG-II at Naval Weapons Center—no minimum established."

2. *Career Paths and Pay Levels as Related to Current GS Grade Levels.* Replace Table 5 under the section "Demonstration Elements," 47 FR 42309, with the following revised Table 5 and subsequent new text:

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TABLE 5 CAREER PATHS AND PAY LEVELS AS RELATED  
TO GS GRADE LEVELS

Scientists, Engineers, and Senior Staff	GS	1-4	5-8	9-11	12-13	14-15	16-18
	DP	A	I	II	III	IV	V
Technicians (NOSC only)	GS	1-4	5-8	9-10	11-12		
	DT	A	I	II	III		
Technicians (NWC only)	GS	1-4	5-7	8-10	11-12		
	DT	A	I	II	III		
Technical Specialists	GS	1-4	5-8	9-10	11-12		
	DS	A	I	II	III		
Administrative Specialists	GS	1-4	5-8	9-10	11-12		
	DA	A	I	II	III		
General (NOSC only)	GS	1-3	4-5	6-7	8-9	10-11	
	DG	A	I	II	III	IV	
General* (NWC only)	GS	1-3	4-5	5-6	6-7	8-9	10-11
	DG	A	I	II	III	IV	V

\* NWC career path entry is effective the pay period beginning November 22, 1987. NOSC is authorized to retain their previously established Clerical/Assistant Career Path or to adopt NWC's DG Career Path, subject to OPM approval.



Both Centers intended to enter their clerical/assistant workforces into the demonstration project as shown in 45 FR 26515. However, until the project population limit was waived in 1984, the NWC Clerical/Assistant Career Path could not be included. Continued extensive use of the General Schedule at NWC alongside of the demonstration plan has created problems involving position classification, precise grade determination, communication, turnover, management flexibility and morale. The Clerical/Assistant Career Path is appropriate to a population with multiple entry and full performance levels. It will provide similar salary growth potential to the current GS system without any need for larger merit increases than those available to other career paths in the project. It will preserve also the broad pay band approach implemented for the other career paths as well as the same size pay pools, pay system structure, and performance assessment, rating, and payout approach.

The Clerical/Assistant (DG) Career Path at NWC differs from the DG Career Path in place at NOSC, chiefly in its use of more extensively overlapping pay bands. Should NWC's approach prove to be particularly successful, NOSC will, subject to approval by OPM, be permitted to replace its current DG Career Path with NWC's.

3. *Modification of the Compensation Section.* In 45 FR 26520 at the end of the paragraph entitled "New Hires," add the following:

#### Recruitment Bonus

A goal in establishing the demonstration project was to increase the degree to which NOSC and NWC are able to attract and recruit scientists and engineers. The provisions for flexible starting salaries have enabled both Centers to do so, particularly for candidates with bachelor's and master's degrees. However, the Centers still cannot compete effectively for some categories of scientists and engineers.

It has already been demonstrated under the project that salary offers closer to those offered by private industry have resulted in increased recruitment success. An alternative which has not been tried is a one-time recruitment bonus over and above base salary. This method has the potential advantage of enhancing the Centers' competitiveness while not necessarily increasing continuing salary costs.

The Centers are authorized to pay recruitment bonuses to attract candidates for specially designated critical positions. Annually, each Center will target disciplines and degrees in which they have had little or no recruiting success in the previous year, such as Electronics Engineers and Computer Scientists with Ph.D.'s.

The Commander and Technical Director will establish the bonus amount for the targeted disciplines and degrees prior to the beginning of the recruiting year, based on recommendations from the cognizant committee. An example of how a bonus amount would be set is:

50th percentile  
of College Placement  
Council Offers

- Inhire salary rate  
for category  
candidate

= Bonus up to 15%  
of inhire  
salary  
rate

The recruitment bonus may not exceed 15% of the new hire's base salary. Receipt of the bonus will be subject to the employee's agreement to remain an employee of the Center for a minimum of one year. An employee who does not fulfill the agreement must repay a prorated share of the bonus for each month not completed, unless failure to complete is due to death or disability, or is determined by the Commander and the Technical Director to be for the convenience of the government.

Each candidate meeting the established criteria who is offered, accepts, and enters on duty will receive a bonus regardless of university, grade point average, or other factors. The bonus is not considered part of continuing salary for purposes of budgetary accounting, or for any benefit related to base pay including retirement and workers compensation.

The effectiveness of the recruitment bonus in increasing recruitment success will be evaluated using several measures, including:

- a. Acceptance ratios of categories of employees offered bonuses versus categories not offered bonuses; and
- b. Acceptance ratios of candidates from specified quality schools when bonuses are offered versus prior years' acceptance ratios at those schools.

[FR Doc. 87-28366 Filed 12-9-87; 8:45 am]  
BILLING CODE 6325-01-M

#### POSTAL RATE COMMISSION

[Order No. 781; Docket No. MC88-1]

#### Money Order Sale Limitations, 1987; United States Postal Service's Filing of Proposal To Authorize Restrictions on the Sale of Postal Money Orders and Order Designating Officer of the Commission and Fixing Procedural Dates

Issued December 4, 1987.

Before Commissioners; Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

Notice is hereby given that on December 4, 1987, the United States Postal Service, pursuant to section 3623 of title 39, United States Code, filed a request with the Postal Rate Commission for a Recommended Decision on proposed changes to the Domestic Mail Classification Schedule (1) to make an editorial change to state correctly the maximum value for individual money orders; and (2) to authorize the Postal Service to make permanent rather than temporary restrictions on sales of postal money orders. 39 CFR 8.020.<sup>1</sup> This filing has been designated Docket No. MC88-1.

The proposal was accompanied by the filing of the Direct Testimony of Grayson M. Poats in support of the proposal.

*Motion for waiver of Rules 64(b)(3) and 64(c).* Simultaneously with the filing of the case, the Postal Service filed a

<sup>1</sup> The specific changes to the Domestic Mail Classification Schedule are set out in legislative format in Attachment A of the Postal Service's Request.



Motion for Waiver of Sections 64(b)(3) and, in part, 64(c) of the Commission's rules of practice. (39 CFR 3001.64(b)(3) and (c).) Section 64(b)(3) requires the Postal Service to file a statement "identifying the degree of economic substitutability between the various classes and subclasses" including a description of cross-elasticity of demand between various classes of mail. Section 64(c) requires the Postal Service to provide information concerning the characteristics of mailers and the items they mail by class and subclass.

The Postal Service says that it should be granted a waiver because the proposed changes will not have an impact on money order volumes, costs and revenues. Because the proposed changes are limited to domestic money order service, the Service states that the economic substitutability of the different classes of mail is not relevant to the proposed change. Furthermore, according to the Service, waiver of rule 64(b)(3) and 64(c) is justified because its proposal would not affect the character of the money order special service "but would cause a minor change in the customers who use money order service."

Persons who wish to address the Postal Service's motion should file their answers on or before December 30, 1987.

The request of the Postal Service for a recommended decision on establishing changes to the Domestic Mail Classification Schedule and the motion for waiver of certain filing provisions of the Commission's rules of practice and procedure are on file with the Commission and are available for public inspection during regular business hours.

**Intervention.** Any person desiring to be heard with reference to the proposal submitted by the Postal Service in Docket No. MC88-1 and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a notice of intervention. Notices of intervention must be filed with the Secretary, Postal Rate Commission, Washington, DC 20268-0001 on or before December 30, 1987, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to section 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not the petitioner requests a hearing, or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in the hearing.<sup>2</sup>

<sup>2</sup> Parties are encouraged to inform the Postal Service informally and promptly of desired preliminary clarifications of the Postal Service's

Alternatively, persons seeking limited participation but who do not wish to become parties may, on or before December 30, 1987, file a written notice of limited participation, pursuant to § 3001.20a. In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 20b of the Commission's rules, 39 CFR 3001.20b.

**Officer of the Commission.** The Officer of the Commission charged with representing the interests of the general public in this docket (39 U.S.C. 3624(a)) is Stephen A. Gold, Director, Office of the Consumer Advocate. During this proceeding, he will direct the activities of the Commission personnel assigned to assist him and neither he nor such personnel will participate in nor advise as to any Commission decision (39 CFR 3001.8). The Officer of the Commission shall supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case.

In this case the Officer of the Commission shall be separately served with three copies of all filings, in addition to and simultaneously with service on the Commission of the 25 copies required by section 10(c) of the rules of practice (39 CFR 3001.10(c)).

#### *The Commission Orders*

(A) Notices of intervention as a full or limited participant in this docket shall be sent to Charles L. Clapp, Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001, on or before December 30, 1987.

(B) Responses to the Postal Service's motion for waiver of sections 64(b)(3) and 64(c) of the rules of practice shall be due on or before December 30, 1987.

(C) Stephen A. Gold is designated Officer of the Commission to represent the interests of the general public in this proceeding. Service of documents on the Commission shall not constitute service on the Office of the Commission, who shall separately be served three copies of all documents.

(D) The Secretary shall cause this Notice and Order to be published in the **Federal Register**.

presentation, and to consider the possibility of settlement of any or all issues or questions of fact. If the Postal Service believes that settlement negotiations may be fruitful, it should consider following the procedure used in Docket No. MC87-1 and file a motion to postpone the prehearing conference.

By the Commission.

Charles L. Clapp,  
Secretary.

[FR Doc. 87-28278 Filed 12-9-87; 8:45 am]

BILLING CODE 7715-01-M

[Order No. 780; Docket No. A88-1]

**Bern, Idaho 83200, (Jimmy Kunz, et al., Petitioners); Order Accepting Appeal and Establishing Procedural Schedule**

Issued: December 3, 1987.

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" Le Blanc III.

*Docket Number:* A88-1.

*Name of Affected Post Office:* Bern, Idaho 83220.

*Name(s) of Petitioner(s):* Jimmy Kunz et al.

*Type of Determination:* Closing.

*Date of Filing of Appeal Papers:* November 27, 1987.

*Categories of Issues Apparently Raised:*

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).

2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of those issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

#### *The Commission Orders:*

(A) The record in this appeal shall be filed on or before December 14, 1987.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,  
Secretary.

#### **Appendix**

November 27, 1987—Filing of Petition  
December 3, 1987—Notice of Order of  
Filing of Appeal

December 22, 1987—Last day of filing of  
petitions to intervene [see 39 CFR  
3001.111(b)].



January 4, 1988—Petitioners' Participant Statement or Initial Brief (*see* 39 CFR 3001.115(a) and (b)).

January 25, 1988—Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).

February 9, 1988—Petitioners' Reply Brief should petitioners choose to file one (*see* 39 CFR 3001.115(d)).

February 16, 1988—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).

March 26, 1988—Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 87-28280 Filed 12-9-87; 8:45 am]

BILLING CODE 7715-01-M

## RAILROAD RETIREMENT BOARD

### Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1988, shall be at the rate of 26 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1988, 30.4 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 69.6 percent of the taxes collected under such sections 3211(b) 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.  
Beatrice Ezerski,  
Secretary to the Board.

Dated: December 1, 1987.

[FR Doc. 87-28297 Filed 12-9-87; 8:45 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25172; File No. SR-MSRB-87-12]

### Self-Regulatory Organizations; Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Uniform Practice and Customer Confirmations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 5, 1987, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(A) The Municipal Securities Rulemaking Board ("Board") is filing amendments to Board rule G-12 on uniform practice and Board rule G-15 on confirmation, clearance, and settlement of transactions with customers (hereafter referred to as the "proposed rule change"). The proposed rule change would eliminate the presumption in favor of bearer securities in rules G-12(e)(vi)(a) and G-15(c)(iv)(A) and would permit deliveries of interchangeable securities to be in either bearer or registered form, unless there is an agreement between parties on a specific form of delivery. The proposed rule change also would eliminate the one-day reclamation provision in rule G-12(g)(iii)(4) for securities delivered in registered form. Finally, since deliveries could be made in either registered or bearer form and since a dealer may not know the form of the security prior to delivery, the proposed rule change would eliminate the requirement in rules G-12(c)(vi)(B) and G-15(a)(iii)(B) to designate a security as being in registered form on confirmations.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

(a) Since July 1, 1983, the Tax Equity and Fiscal Responsibility Act of 1982

("TEFRA") has required all municipal securities over one year in maturity to be issued in registered form to be exempt from Federal income taxation, and almost all municipal securities issued since this date have been issued in registered form. Prior to the effective date of TEFRA, many issues of municipal securities allowed holders to choose registered or bearer certificates ("interchangeables"). Rules G-12(e)(vi)(a) and G-15(c)(iv)(A) state that deliveries of interchangeable securities must be in bearer form unless the parties have agreed to registered certificates. Rule G-12(g)(iii)(4), on reclamations, permits a dealer to reclaim interchangeable securities within one business day of their delivery if they are in registered form and were not specified as such at the time of trade. The proposed rule change would eliminate the presumption in favor of bearer securities in rules G-12(e)(vi)(a) and G-15(c)(iv)(A) and would permit deliveries of interchangeable securities to be in either bearer or registered form, unless there is an agreement between parties on a specific form of delivery. The proposed rule change also would eliminate the one-day reclamation provision in rule G-12(g)(iii)(4) for securities delivered in registered form. Finally, since deliveries could be made in either registered or bearer form and since a dealer may not know the form of the security prior to delivery, the proposed rule change would eliminate the requirement in rules G-12(c)(vi)(B) to designate a security as being in registered form on confirmations.

The Board has determined that the presumption in favor of bearer certificates which was adopted prior to the TEFRA requirement for registered securities, is inconsistent with today's increasing registered environment and the use of automated clearance and settlement systems. The proposed rule change will allow depositories to convert interchangeable securities on deposit from bearer to registered form and thereby minimize the costs and risks of housing certificates, clipping coupons, monitoring calls and other details of processing bearer certificates.

For dealers, the proposed rule change would reduce failed transactions and substantially alleviate missed call notices. The proposed rule change also would permit additional transactions to be settled by book-entry rather than by more expensive physical deliveries, a goal of the Board's automated clearance rules and section 17A of the Securities Exchange Act.

Customers would benefit from the proposed rule change because of the



better call notification, prompt interest payments and the relative safety from theft or loss offered by registered certificates. The Board believes that investors generally have become more comfortable with registered securities as nearly all new issue activity since July 1, 1983, TEFA's effective date, has been in registered form. The Board believes that as a practical matter, there is little, if any, incentive for holding bearer certificates.

The proposed rule change also would delete the requirement that confirmations disclose whether securities are in registered form. The adoption of the proposed rule change will eliminate the need for the selling party in a transaction to know at the time of trade whether interchangeable securities are in registered or bearer form unless there is an agreement that a specific form of certificate will be delivered. If the parties to a transaction do agree on a specific form of delivery, this would have to be noted on the confirmation, as a special condition to the trade.

(b) The proposed rule change is adopted pursuant to section 15(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules:

designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and in general, to protect investors and the public interest \* \* \*.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board does not believe that the proposed rule change will impose any burden on competition since it will apply to all brokers, dealers and municipal securities dealers equally.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

The Board solicited comments on the proposed rule change in an exposure draft published in June 1987. The Board received 17 comment letters on the exposure draft and one comment letter.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i)

as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding of (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 4, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 4, 1987.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 87-28399 Filed 12-9-87; 8:45 am]

BILLING CODE 8010-01-M

#### **DEPARTMENT OF STATE**

##### **[Public Notice 1041]**

#### **Extension of the Restrictions on the Uses of the United States Passport for Travel To, In, or Through Libya**

On December 11, 1981, pursuant to the authority of Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.72(a)(3), the use of the United States Passport for travel to, in, or through Libya was restricted. These restrictions have subsequently been extended on November 29, 1982 (47 FR 54888), November 29, 1983 (48 FR 55529), November 29, 1984 (49 FR 47585),

November 25, 1985 (50 FR 49809), and December 9, 1986 (51 FR 44855). These actions were required by the unsettled relations between the United States and the Government of Libya and the threats of hostile acts against Americans in Libya.

The Government of Libya still maintains a decidedly anti-American stance and continues to emphasize its willingness to direct hostile acts against the United States and its nationals. The American Embassy in Tripoli remains closed, thus preventing the United States from providing routine diplomatic protection or consular assistance to Americans who may travel to Libya.

In light of these events and circumstances, I have determined that Libya continues to be an area " \* \* \* where there is imminent danger to the public health or physical safety of United States travelers."

Accordingly, United States passports shall remain invalid for use in travel to, in, or through Libya unless specifically validated for such travel under the authority of the Secretary of State.

The Public Notice shall be effective upon publication in the *Federal Register* and shall expire at the end of one year unless sooner extended or revoked by Public Notice.

Date November 30, 1987.

**George P. Shultz,**  
Secretary of State.

[FR Doc. 87-28284 Filed 12-9-87; 8:45 am]

BILLING CODE 4710-06-M

#### **[Public Notice CM-8/1137]**

#### **Shipping Coordinating Committee; Meeting**

The Shipping Coordinating Committee will hold a series of meetings to consider U.S. policy with respect to an upcoming review and possible revision of international law concerning liability and compensation for damage caused by the maritime carriage of Hazardous and Noxious Substances (HNS). This subject will be considered by the Legal Committee of the International Maritime Organization (IMO) at its 59th Session in April 1988. The first Shipping Coordinating Committee meeting in preparation for the 59th Session will be held at 0930 on Tuesday, 12 January 1988, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

By way of background, in 1982 the Legal Committee of the International Maritime Organization (IMO) completed a draft Convention on Liability and Compensation in Connection with the



Carriage of Noxious and Hazardous Substances by Sea. The draft Convention provided for a regime of strict liability for the carriers and shippers of certain HNS transported in bulk on tank vessels; the 49 HNS selected were those judged to present severe fire and explosion, toxicity, and/or marine pollution hazards.

The draft Convention framework was a two-tier system of liability, with shipowners responsible for the lower tier of damage and shippers bearing liability for the upper tier up to a certain limit above the shipowner's limit of liability; actual compensation was to be paid to the victims out of the proceeds of compulsory insurance, with Contracting States responsible to ensure that shipowners and shippers had the required insurance before HNS were transported. The specific monetary limits of liability and a number of other key issues were left for the Diplomatic Conference to resolve.

In May 1984, the International Conference on Liability and Compensation for Damage in Connexion with the Carriage of Certain Substances by Sea took up the draft HNS Convention, as well as draft Protocols for the 1969 International Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. After extensive consideration, the draft HNS Convention was not adopted because of the absence of any clear consensus on how to resolve the fundamental liability issues.

A substitute shipper insurance coverage proposal introduced during the Conference was rejected because the delegates did not have sufficient time to consider this option. However, the Conference did adopt an HNS Resolution confirming the "need to adopt uniform international rules and returning the draft Convention to IMO so that the Organization might arrange for the preparation of "a new and more widely acceptable draft."

After the 1984 Conference, HNS was placed on the Legal Committee work program in the hope that "governments and interested organizations might, through informal consultations where appropriate, consider possible new approaches and solutions to the fundamental issues." In August 1985, the IMO Secretary-General forwarded a report to the Legal Committee identifying the HNS issues on which the Diplomatic Conference had revealed wide differences of opinion. Two years later, when the Legal Committee held its 58th Regular Session in London from 12-16 October 1987, ten nations jointly

submitted a brief outline of options intended to serve as the basis for the resumption of HNS work.

The submission proposed that the two liability schemes most worth exploring are: (1) Shipowner liability supplemented by compulsory cargo insurance; and (2) shipowner liability in the context of an overall revision of the 1976 International Convention on Limitation of Liability for Maritime Claims. The revision of the 1976 Convention would involve either raising the global limitation amounts to a level adequate to compensate HNS damage, or creating a special layer of HNS liability coverage available only for HNS damage.

Highlights of the Legal Committee's discussion of the HNS options paper at the 58th Session are as follows:

1. Most delegations expressing views favored further work toward an international system of liability so that such a system could be in place before any major HNS catastrophe; this majority supported moving to HNS work on a priority basis early in 1988.

2. Many delegations expressed a preliminary preference for placing liability on the shipowner alone, without involving cargo interests; a number of these delegations expressed strong interest in using a revision of the 1976 Convention as the framework for an HNS regime.

3. The Committee was divided on the issue of packaged HNS, with the apparent majority in favor of their inclusion.

In light of the Legal Committee's strong views in support of working on HNS as a priority subject, and the significant impacts the particular HNS scheme developed would have on a wide range of U.S. interests related to industry, government and the environment, the U.S. needs to develop an overall HNS policy. The first Shipping Coordinating Committee meeting on this subject will, as previously noted, be held on 12 January 1988. Participation by representatives of all potentially affected interests, including vessels transporting bulk or packaged hazardous substances, chemical manufacturers, chemical shippers, marine terminal operators, port authorities, marine insurers, state and local governments, and environmental groups, is encouraged.

Significant decisions about which basic HNS option to pursue may be taken at the IMO Legal Committee's 59th Session in April 1988, and the U.S. should therefore develop its overall HNS policy as expeditiously as possible. For this reason, attendance at the 12 January public meeting by individuals with the

necessary background to participate fully in an informed exchange of views on the many complex HNS issues is important.

It is requested that those attending the January public meeting be prepared to discuss the following preliminary questions:

1. Assuming that an international HNS regime for liability/compensation is developed, what general scheme would best serve U.S. interests (e.g., shipowner-only, shared shipowner-cargo, or other)?

2. How should liability/compensation be structured?

3. Should packaged HNS be covered?

4. What principles should guide the formulation of the list of covered HNS, and how should this list be developed?

5. What types of HNS incidents/hazards (e.g., fire and explosion, toxicity, pollution, and unladen tankers), and what types of potential HNS damage should be covered (e.g., personal injury, property damage, economic losses, environmental cleanup costs, etc.)?

6. Approximately what specific monetary limits of liability/compensation should be considered?

7. What are the insurance implications of the development of an HNS liability/compensation scheme?

8. In view of the benefits which may be obtained for U.S. interests from an international HNS regime, on what basis may agreement be reached among U.S. public and private sector interests on the subject of federal and state remedy preemption, a foreseeable element of such a regime?

9. What U.S. interests here and abroad will be impacted by the implementation of an HNS liability/compensation scheme?

10. What information is available concerning the number and severity (actual or potential) of marine or other HNS mishaps or near mishaps over the past several decades?

Members of the public are invited to attend the meeting, up to the seating capacity of the room.

For further information pertaining to the special HNS meetings, or the issues to be discussed at the 12 January public meeting, please contact Captain Frederick F. Burgess, Jr., or Lieutenant Commander Frederick M. Rosa, Jr., Maritime and International Law Division, U.S. Coast Guard (G-LMI), Washington, DC., 20593, telephone (202) 267-1527.



Date: December 1, 1987.

Richard C. Scissors,  
Chairman, Shipping Coordinating Committee.

[FR Doc. 87-28283 Filed 12-9-87; 8:45 am]

BILLING CODE 4710-07-M

## DEPARTMENT OF TRANSPORTATION

[Docket No. 37554]

### Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. Order 80-2-69 established the first interim SFFL and Order 87-10-28 set the currently effective two-month SFFL applicable through November 30, 1987.

In establishing the SFFL for the two-month period beginning December 1, 1987, we have projected nonfuel costs based on the year ended September 30, 1987 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as required to the Department.

By Order 87-12-11 fares may be increased by the following factors over the October 1, 1979, level:

Atlantic .....	1.1781
Latin America .....	1.1514
Pacific .....	1.5005
Canada .....	1.1382

#### FOR FURTHER INFORMATION CONTACT:

Julien R. Schrenk, (202) 366-2441.

By the Department of Transportation.

Matthew V. Scocozza,  
Assistant Secretary for Policy and  
International Affairs.

Date: December 4, 1987.

[FR Doc. 87-28293 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-62-M

### Coast Guard

[CGD 87-090]

#### Chemical Transportation Advisory Committee, Subcommittee on Vapor Control; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is

hereby given of meeting of the Chemical Transportation Advisory Committee (CTAC) Subcommittee on Vapor Control. The Subcommittee is considering requirements for tank vessels and waterfront facilities which use vapor control systems. The meeting will be held on Thursday, January 7, 1988 and Friday, January 8, 1988, in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 5:00 p.m. on Thursday, and begin at 8:00 a.m. and end at 3:00 p.m. on Friday. At this meeting, the National Academy of Sciences Marine Board Study on Control of Hydrocarbon Vapors from Ships and Barges is scheduled to be presented. In addition, the recommendations of the Fire Protection Working Group, Waterfront Facilities Working Group, Tankship Working Group, and Tank Barge Working Group are to be presented and discussed.

The agenda is as follows:

1. Call to order.
2. Opening remarks.
3. Presentation of National Academy of Sciences Marine Board Study.
4. Presentation of recommendations of working groups.
5. Discussion of recommendations of working groups.
6. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meetings. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander R.H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1217.

Dated: December 3, 1987.

P.C. Lauridsen,

Captain, U.S. Coast Guard, Acting Chief,  
Office of Marine Safety, Security and  
Environmental Protection.

[FR Doc. 87-28371 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-14-M

[CGD 87-093]

#### Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of the sixteenth meeting of the Houston/Galveston Navigation

Safety Advisory Committee. The meeting will be held on Thursday, January 28, 1988 in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas. The meeting is scheduled to begin at approximately 9:30 a.m. and end at approximately 1:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the Committee.
3. Presentation of any additional new items for consideration of the Committee.
4. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting the Houston/Galveston area.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander V. O. Eschenburg, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (m), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: December 7, 1987.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard, Commander,  
Eighth Coast Guard District.

[FR Doc. 87-28372 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-14-M

[CGD 87-092]

#### Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Inshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 14, 1988 in the conference room of West Gulf Maritime Association, Portway Plaza, Suite 200, 1717 East Loop, Houston, Texas. The meeting is scheduled to begin at 10:30 a.m. and end at 12:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.



2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee.

3. Presentation of any additional new items for consideration to the Subcommittee.

#### 4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. Individuals making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander V.O. Eschenburg, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (m), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: December 7, 1987.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 87-28373 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-14-M

[CGD 87-091]

### Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 14, 1988 in the conference room of West Gulf Maritime Association, Portway Plaza, Suite 200, 1717 East Loop, Houston, Texas. The meeting is scheduled to begin at 9:00 a.m. and end at 10:30 a.m. The agenda for the meeting consists of the following items:

1. Call to Order.

2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee.

3. Presentation of any additional new items for consideration to the Subcommittee.

#### 4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. Individuals making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander V.O. Eschenburg, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (m), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: December 7, 1987.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 87-28374 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-14-M

### Federal Aviation Administration

[Docket No. 042CE]

### British Aerospace Public Limited Co.; Summary of Petition

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Reopening of comment period.

**SUMMARY:** This Notice announces a reopening of the comment period for the Petition for Exemption received from the British Aerospace Public Limited Co., Summary Notice No. PE-87-25, published in the *Federal Register* on Thursday, October 8, 1987. This petition requests exemption from § 23.807(d)(1)(ii) of the Federal Aviation Regulations (FAR) to allow the certification of the Jetstream Series 3200 in the commuter category of Part 23 with one larger overwing exit on the side opposite the passenger entrance door in

lieu of the required two smaller exits. This reopening of comment period is in response to a petition from Fairchild Aircraft Corporation requesting a 60-day extension to allow them to study the matter and formulate reasonable comments.

**DATE:** Comments must be received on or before February 8, 1988.

**ADDRESSES:** Comments on the petition for exemption, Notice No. PE-87-25, must be mailed in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, attention: Rules Docket (AGC-10), Docket No. 042CE, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 042CE. Comments may be inspected in Room 915A, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-332. In addition, the FAA is maintaining an information docket of comments in the office of the Regional Counsel (ACE-7), Room No. 1558, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be inspected in the office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Bobby Sexton, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration (FAA), Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested persons are invited to participate in this rulemaking procedure by submitting such written data, views, or arguments as they may desire. Communications should identify Docket No. 042CE and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to the notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 042CE." The postcard will be date stamped and returned to the commenter. All comments submitted will be available in the Rules Docket, both before and after



the closing date for comments, for examination by interested persons.

#### Background

On July 31, 1987, the British Aerospace Public Limited Company filed a petition for exemption from § 23.807(d)(1)(ii) to allow certification of the Jetstream Series 3200 Airplanes in the commuter category of Part 23 with one larger overwing exit on the side opposite the passenger entrance door in lieu of the required two smaller exits. A summary of the petition for exemption was published in the *Federal Register* (52 FR 37700) on October 8, 1987, with a closing date for comments of October 28, 1987. On October 26, 1987, a request for a 60-day extension of comment period was received from Fairchild Aircraft Corporation, San Antonio, Texas, to allow them time to properly study the matter and formulate reasonable comments.

British Aerospace objects to extending the comment period because they do not consider that sufficient good cause exists for the extension. Further, they contend that a grant of extension of comment period for an exemption is beyond the legal authority of the FAA. The FAA disagrees. FAR Section 11.27(c) states, in relevant part, "[c]omments on the petition for exemption must be filed \* \* \* within 20 days after the summary is published in the *Federal Register* unless the Administrator, for good cause, finds a different time period appropriate." The FAA finds that such good cause, exists, for the reasons discussed herein, and that the FAA is within its authority to reopen this comment period accordingly.

#### Conclusion

This document reopens the comment period on Petition for Exemption, Docket No. 042CE, affording the public and industry additional time in which to review and respond to the notice. This document is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) as no regulatory or economic burden is imposed on any person by this action.

#### Reopening of Comment Period

In consideration of the request from Fairchild Aircraft Corporation to extend the comment period, the FAA concludes that the comment period should be reopened for a period of 60 days to allow public participation in determining a future course of action regarding this rulemaking.

Accordingly, the comment period for the British Aerospace Public Limited Co. Petition for Exemption, Docket No.

042CE, is reopened and the new closing date will be February 8, 1988.

Issued in Kansas City, Missouri on November 24, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-28275 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

#### Flight Service Station at Baer Field Airport, Fort Wayne, IN; Closing

Notice is hereby given that on October 27, 1987, the Flight Service Station at Fort Wayne, Indiana was closed. Services to the general public of Fort Wayne, Indiana Flight Plan Area, formerly provided by this office, will be provided by the New Automated Flight Service Station in Terre Haute, Indiana. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

William H. Pollard,

Director, Great Lakes Region.

Issued in Des Plaines, Illinois on November 19, 1987.

[FR Doc. 87-28276 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-13-M

#### Federal Highway Administration

##### Environmental Impact Statement; Shawano County, WI

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise that an environmental impact statement will be prepared for a proposed highway improvement project in Shawano County, Wisconsin.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jaclyn Lawton, Environmental Coordinator, Federal Highway Administration, 4502 Vernon Boulevard, Madison, Wisconsin 53705-4905; telephone (608) 264-5967.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT), is currently preparing an environmental impact statement for the construction of a bypass for STH 29 around the city of Shawano. The project begins on STH 29 one mile east of the village of Bonduel and rejoins STH 29 one-half mile west of Thornton. Shawano is located in the central section of Shawano County. The proposed project would consist of a four-lane, controlled-access, divided highway and would serve to reduce

heavy congestion in the central business district of Shawano and the accident potential along the present route.

Planning, environmental, and engineering studies are underway to develop transportation alternatives. The EIS will assess the need, location, and environmental impacts of alternatives including: (1) *No-Build*—This alternative assumes the continued use of existing facilities with the maintenance necessary to ensure their use; (2) *Upgrade the Existing Facility*—This alternative would improve the safety and traffic-handling capability of the existing route; and (3) *Construction on New Alignment*—This alternative would involve construction on new location at the outer fringe of the city.

**Coordination & Scoping Process:** Coordination activities have begun. Scoping meetings have been and will be held on an individual and/or group meeting basis. Agency coordination will be accomplished during these meetings. Questions and comments from individuals and agencies concerning this proposed action and the environmental impact statement should be directed to the FHWA at the address provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Coordination. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on December 1, 1987.

Robert W. Cooper,

District Engineer, Madison, Wisconsin.

[FR Doc. 87-28282 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-22-M

#### National Highway Traffic Safety Administration

[Docket No. 78-17; Notice 35]

##### New Car Assessment Program; Optional Testing by Manufacturers

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Request for Comments on Technical Amendment to Optional New Car Assessment Program (Optional NCAP).

**SUMMARY:** This notice requests comments on a proposed technical amendment to the vehicle eligibility criteria for the Optional NCAP test program for motor vehicle manufacturers. Before this notice, vehicles were eligible to be tested under the Optional NCAP if production design changes were made to the vehicles at some time after the original NCAP



results for the vehicle were publicly released. The agency has learned of an instance where production design changes were made to a vehicle before the original NCAP results on that vehicle were publicly released. As a result, this vehicle was not eligible for the Optional NCAP.

The purpose of the Optional NCAP is to give consumers information about improved NCAP results for changed vehicles as soon as possible after those changes are introduced into production. The agency believes that this purpose is best served by providing NCAP test results on vehicles with production design changes that were made since the production date of the vehicle tested in NCAP, not just on those vehicles which were changed after the original NCAP results were publicly released. Therefore, the agency proposes to amend the eligibility criteria of the Optional NCAP to specify that vehicles are eligible if production design changes were made at any date after the production date of the vehicle that was tested in NCAP.

**DATE:** Written comments on this notice must be submitted no later than January 11, 1988.

**ADDRESSES:** Comments on this notice must refer to the docket and notice numbers set forth above and can be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Submissions containing information for which confidential treatment is requested should be submitted (3 copies) to Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, DC 20590, and 7 copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

**FOR FURTHER INFORMATION CONTACT:** Charles L. Gauthier, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4805).

**SUPPLEMENTARY INFORMATION:** On August 21, 1987, the agency published criteria for an Optional NCAP test program for motor vehicle manufacturers (52 FR 31691). The program was instituted to provide manufacturers with an opportunity to retest any of their vehicles that have been tested in the NCAP program and subsequently modified with production changes to improve occupant protection. The testing was designed to be conducted at the manufacturers' expense, but under criteria established

by NHTSA. These criteria require that the testing be conducted at the same test facilities and according to the same controls and procedures used for the agency's NCAP testing. The Optional NCAP test results would be published by the agency in its NCAP press releases.

In the November 19, 1986, Federal Register notice seeking comment on the proposed criteria for an Optional NCAP (51 FR 41888), and in the August 21, 1987, Federal Register notice announcing the final Optional NCAP criteria, the agency described the rationale for the program. Specifically, "the agency [has] concluded that it would be helpful to both consumers and the vehicle manufacturers if the information about improved NCAP test results for the modified vehicles were made public as soon as possible."

The program intended that, as vehicles changed from the ones originally tested in NCAP, manufacturers could request retesting under the Optional NCAP. It was assumed that the changes would be made after the NCAP results were announced. However, based on recent information received from Volkswagen of America, Inc., (Volkswagen), it is clear that limiting eligibility for Optional NCAP to only those vehicles that have had a change made after the NCAP results are announced is not consistent with the intent of the program.

On October 2, 1987, Volkswagen requested the retesting of the 1987 Volkswagen Fox 2-door under the Optional NCAP. The agency released its NCAP test data on the Volkswagen Fox on September 15, 1987. Volkswagen's request met most of the requirements for testing under the Optional NCAP: (1) The vehicle was previously tested in NCAP; (2) a production design change was made; and (3) actual crash test results were provided. However, the production design changes were made before the September 15, 1987, release of the 1987 Volkswagen Fox NCAP crash test results. Therefore, Volkswagen's request for a retest was denied.

As previously discussed, the Optional NCAP was designed to give consumers information on vehicles that have had changes made to improve their NCAP crash test performance, and, therefore, are different from the vehicles originally tested in NCAP. That is the case with the Volkswagen Fox. Consumers currently can walk into dealer showrooms and purchase Volkswagen Fox vehicles which are different from the one tested by NHTSA. Thus, the agency believes that the current NCAP test data available to the public on some vehicles may not be indicative of the

crash test performance of the vehicle a consumer may be considering for purchase.

In order to correct this type of situation, the agency proposes that Optional NCAP criteria Nos. 1.a. and 1.b. be amended as follows:

1. The following vehicles are eligible for testing under this program:

a. Any model that has previously been tested under the NCAP program, and at some time after the production date of the vehicle tested in NCAP, the manufacturer has made production design changes to the model that are likely to significantly improve its NCAP test results.

b. A model selected by NHTSA that is in the same line as a model that was previously tested under the NCAP program, but the tested model is no longer in production, and, at some time after the production date of the vehicle tested in NCAP, the manufacturer has made production design changes to the line of vehicles that are likely to significantly improve the NCAP test results.

Interested persons are invited to submit comments on NHTSA's proposed technical amendment to the Optional NCAP. It is requested but not required that 10 copies of comments be submitted. A 30-day comment period is provided. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and 7 copies, from which the purportedly confidential information has been deleted, should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be accepted, and will be available for examination in the docket at the above address both before and after that date. The agency will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons



continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments in the public docket should enclose in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on December 4, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-28294 Filed 12-9-87; 8:45 am]

BILLING CODE 4910-59-M



# Sunshine Act Meetings

Federal Register

Vol. 52, No. 237

Thursday, December 10, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:30 a.m. on Tuesday, December 15, 1987, to consider matters relating to real estate investment activities by insured banks.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: December 8, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-28491 Filed 12-8-87; 1:15 pm]

BILLING CODE 6714-01-M

## FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 87-27874.

The closed meeting of Tuesday, December 8, 1987, has been continued to Thursday, December 10, 1987, at 10:00 a.m.

\*\*\*\*\*

**DATE AND TIME:** Tuesday, December 15, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

\*\*\*\*\*

**DATE AND TIME:** Thursday, December 17, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor).

**STATUS:** This meeting will be open to the public.

### MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.

Correction and Approval of Minutes.

Election of Officers:

Election for Chairman; Election of Vice Chairman.

Certification Matters:

Notifications of Eligibility and

Certifications to the Secretary of the Treasury for Payments of Presidential Primary Matching Funds to Presidential Candidates.

Reagan-Bush '84 (Primary) Committee Final Repayment Determination.

Petition for Rulemaking filed by the National Right to Work Committee; Advance Notice of Proposed Rulemaking on MCF.

Status of Regulations.

Routine Administrative Matters.

### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 87-28518 Filed 12-8-87; 2:44 pm]

BILLING CODE 6715-01-M

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 7, 1987.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published December 9, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2:30 p.m., Thursday, December 10, 1987.

**CHANGES IN THE MEETING:** The "STATUS" of the meeting has been changed to "PART OPEN/PART CLOSED" [Pursuant to 5 U.S.C. 552b(c)(10)].

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. In Open Session: *Southern Ohio Coal Company*, Docket Nos. WEVA 86-35-R, etc. (continuation of Commission's consideration of previously discussed matter.)

2. Consideration of possible revisions to Commission procedural Rules 35-38. 29 CFR 2700.35 through 2700.38. (Open)

3. In Closed Session: *Utah Power & Light Company, Mining Division*, Docket No. WEST 87-130-R, etc. (Issues include Utah Power's petition for Interlocutory Review.)

It was determined by a unanimous vote of Commissioners that the status of the one item be changed to closed, and that no earlier announcement of the change was possible.

### CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-28434 Filed 12-8-87; 11:16 am]

BILLING CODE 6735-01-M

## FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 45709, December 1, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, December 7, 1987.

**CHANGES IN THE MEETING:** One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Appointment of new members to the Consumer Advisory Council. (This item was originally announced for a closed meeting on December 2, 1987.)

### CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: December 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-28427 Filed 12-8-87; 11:03 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

**TIME AND DATE:** 2:00 p.m., Tuesday, December 15, 1987.

**PLACE:** Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

### MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Detroit Motor Vehicle Dealers, Docket No. 9189.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Detroit Motor Vehicle Dealers, Docket No. 9189.

### CONTACT PERSON FOR MORE

INFORMATION: Susan B. Ticknor, Office



of Public Affairs: (202) 326-2179;  
Recorded Message: (202) 326-2711.

Emily H. Rock,  
Secretary.

[FR Doc. 87-23426 Filed 12-8-87; 11:03 am]

BILLING CODE 6750-01-M

#### LEGAL SERVICES CORPORATION

##### Board of Directors Meeting

**TIME AND DATE:** A closed Executive Session will commence at 8:00 p.m. Thursday, December 17, and continue until 11:00 p.m. in the Indigo Room. The open meeting will commence at 11:00 a.m. on Friday, December 18, 1987, and continue until 12:30 p.m. It will reconvene at 1:45 p.m. and continue until all official business is completed.

**PLACE:** The Mills House Hotel, (Executive Session) Indigo Room, Signers Ballroom (first floor), 115 Meeting and Queen Streets, Charleston, South Carolina 29402.

**STATUS OF MEETING:** Open [A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act [5 U.S.C. 552b (c)(2), (6), (7), (9)(B), and (10)] and [45 CFR 1622.5(a), (e), (f), (g), and (h)].

#### MATTERS TO BE CONSIDERED:

##### Executive Session (Closed)

1. Personnel and Personal Matters
2. Litigation and Investigation Matters

##### Board of Directors Meeting (Open)

1. Approval of Agenda
2. Approval of Minutes  
—Meeting of October 2, 1987
3. Approval of Minutes  
—Meeting of November 20, 1987
4. Report from the Audit and Appropriations Committee
5. Report from the Operations and Regulations Committee and Reconsideration of Part 1607, Governing Bodies
6. Report from the Provisions for the Delivery of Legal Services Committee
7. Status of Orange County Voucher Project
8. Report on *Crane vs. The United States*
9. Update on the National Commission for Legal Services

Discussion and Public Comment follow each item.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Maureen R. Bozell, Executive Office, (202) 863-1839.

Date issued: December 8, 1987.

Maureen R. Bozell,  
Secretary.

[FR Doc. 87-28518 Filed 12-8-87; 4:10 pm]

BILLING CODE 6820-35-M

#### LEGAL SERVICES CORPORATION

##### Operations and Regulations Committee Meeting

**TIME AND DATE:** The meeting will commence at 9:00 a.m. on Thursday, December 17, 1987, and continue until 12:30 p.m. On Friday, December 18, the meeting will again convene at 9:00 a.m. until 11:00 a.m.

**PLACE:** The Mills House Hotel, Signers Ballroom (first floor), 115 Meeting and Queen Streets, Charleston, South Carolina 29402.

**STATUS OF MEETING:** Open

#### MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes  
—Meeting of August 27-28, 1987
3. Approval of Minutes  
—Meeting of November 20, 1987
4. Consideration of Proposed Revisions to Part 1607, Governing Bodies
5. Public Comment on Proposed Revisions to Part 1607, Governing Bodies

Discussion and Public Comment follow each item.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Maureen R. Bozell, Executive Office, (202) 863-1839.

Date issued: December 8, 1987.

Maureen R. Bozell,  
Secretary.

[FR Doc. 87-28549 Filed 12-8-87; 4:10 pm]

BILLING CODE 6820-35-M

#### LEGAL SERVICES CORPORATION

##### Audit and Appropriations Committee Meeting

**TIME AND DATE:** The meeting will commence at 1:45 p.m. on Thursday, December 17, 1987, and continue until all official business is completed.

**PLACE:** The Mills House Hotel, Signers Ballroom (first floor), 115 Meeting and Queen Streets, Charleston, South Carolina 29402.

**STATUS OF MEETING:** Open.

#### MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes:  
—Meeting of November 19, 1987
3. Review of FY 1988 Budget Request
4. Consideration of FY 1989 Budget Proposals
5. Project Advisory Group Presentation on Allocation of Support Funds

Discussion and Public Comments follow each item.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: December 8, 1987.

Maureen R. Bozell,  
Secretary.

[FR Doc. 87-28550 Filed 12-8-87; 4:10 pm]

BILLING CODE 6820-35-M

#### NEIGHBORHOOD REINVESTMENT CORPORATION

##### Personnel Committee Meeting

**TIME AND DATE:** 3:00 P.M.—Wednesday, December 16, 1987 (Postponed from December 2, 1987).

**PLACE:** National Credit Union Administration, 1776 G Street, NW., 6th Floor Chairman's Conference Room, Washington, DC. 20456.

**STATUS:** Closed.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Timothy McCarthy, Director of Communications, 376-2623.

#### AGENDA:

1. Officer Compensation

Carol J. McCabe,  
Secretary.

[FR Doc. 87-28411 Filed 12-7-87; 5:07 am]

BILLING CODE 7570-01-M

#### PAROLE COMMISSION

**DATE AND TIME:** Tuesday, December 15, 1987—9:00 a.m. to 12:00 noon.

**PLACE:** 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

**STATUS:** Closed pursuant to a vote to be taken at the beginning of the meeting.

**MATTERS TO BE CONSIDERED:** Appeals to the Commission of approximately 7 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

#### CONTACT PERSON FOR MORE

**INFORMATION:** David J. Dorworth, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

Date: December 4, 1987.

Patrick J. Glynn,  
General Counsel, United States Parole Commission.

[FR Doc. 87-28432 Filed 12-8-87; 11:08 am]

BILLING CODE 4410-01-M

#### PAROLE COMMISSION

**PLACE:** 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

#### DATE AND TIME:

Tuesday, December 15, 1987—1:00 p.m. to 5:30 p.m.  
Wednesday, December 16, 1987—9:00 a.m. to 5:00 p.m.

#### MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting of October 21 through October 22, 1987.



2. Discussion and adoption of Commission policy on supervision of parolees with AIDS.
3. Summary of recent revisions to the Comprehensive Crime Control Act of 1984 (discussion only).
4. Report on the Budget (discussion only).
5. Consideration of innovative uses of parole supervision (discussion only).

#### Consent Agenda

6. Approval of Rules and Procedures Memorandum dated December 3, 1987.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jim L. Beck, Director of Research, United States Parole Commission (301) 492-5980.

Date: December 4, 1987.

Patrick J. Glynn,

General Counsel, United States Parole Commission.

[FR Doc. 87-28433 Filed 12-8-87;11:08 am]

BILING CODE 4410-01-M



# Corrections

Federal Register

Vol. 52, No. 237

Thursday, December 10, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Parts 385 and 399

[Docket No. 71149-7249]

#### Export Controls on Iran; Expansion of Foreign Policy Controls

##### Correction

In rule document 87-27306 beginning on page 45309 in the issue of Friday, November 27, 1987, make the following corrections:

#### PART 385—[CORRECTED]

##### § 385.4 [Corrected]

1. On page 45309, in the third column, in § 385.4(d)(3)(i), after paragraph (B), the next paragraph designation should read cap (C).

#### PART 399—[CORRECTED]

##### § 399.1 [Corrected]

2. On page 45311, in the first column, in Supplement No. 1 to § 399.1, in the 10th line, "36494F" should read "6494F"; and in the 19th line, "64698F" should read "6498F".

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-201-405]

#### Certain Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative Review

##### Correction

In notice document 87-27117 beginning on page 45010 in the issue of Tuesday, November 24, 1987, make the following correction:

On page 45013, in the second column, after the table for "Special Construction Fabric" insert the following table:

Textile Furnishings				
360.0600	360.1515	360.2500	360.4225	360.4335
360.4825	360.4835	360.7000	360.7800	360.7900
360.8300	360.8400	361.0530	361.0540	361.2410
361.4200	361.4500	361.4600	361.4800	361.5420
361.5426	361.5610	361.5650	363.0510	363.0515
363.1020	363.1040	363.2000	363.2562	363.2564
363.2575	363.2580	363.2590	363.4500	363.6030
363.6540	363.8506	363.8509	363.8515	363.8525
363.8545	363.8550	363.8555	364.0500	364.1300
364.1800	364.2000	364.2300	364.2500	364.3000
365.5060	365.7815	365.7825	365.7865	365.8400
365.8610	365.8620	365.8640	365.8660	365.8670
365.8980	366.1720	366.2460	366.2480	366.4200
366.4600	366.4700	366.5100	366.7700	366.7925
366.7930	366.8400	367.3224	367.3428	367.6025
367.6040	367.6080			

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NV-930-4212-24; N-46058]

#### Battle Mountain District Tonopah Resource Area, NV; Realty Action

##### Correction

In notice document 87-26735 appearing on page 44492 in the issue of Thursday, November 19, 1987, make the following corrections:

1. In the second column, in the heading "Realty" was misspelled.

2. In the same column, under Segregation, in the third line "segra" should read "segregated".

BILLING CODE 1505-01-D

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules; Availability and Request for Comments

##### Correction

In notice document 87-27714 appearing on page 46010 in the issue of Thursday, December 3, 1987, make the following corrections:

1. In the third column, in paragraph 5, beginning in the first line, the figures inside the parentheses should read, "N1-373-88-1".

2. In the same column, in paragraph 6, in the third line, the figures inside the parentheses should read, "N1-47-88-1".

BILLING CODE 1505-01-D

## NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50-373 and 50-374]

#### Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing; Commonwealth Edison Co.

##### Correction

In notice document 87-27446 beginning on page 45515 in the issue of Monday, November 30, 1987, make the following correction:

The first docket number in the heading is corrected as set forth above.

BILLING CODE 1505-01-D



# Registered Trademark

Thursday  
December 10, 1987

## Part II

### Federal Trade Commission

16 CFR Part 305

Rule for Using Energy Costs and  
Consumption Information Used in  
Labeling and Advertising for Consumer  
Appliances; Final Rule Amendment



## FEDERAL TRADE COMMISSION

## 16 CFR Part 305

## Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances

AGENCY: Federal Trade Commission.

ACTION: Final rule amendment.

**SUMMARY:** The Federal Trade Commission amends its Appliance Labeling Rule by extending coverage to products for which the Department of Energy has issued new or amended test procedures. By means of today's action, which is the culmination of two proceedings begun at separate times, the Commission adds a new category of appliances to the Rule—central air conditioners (which includes heat pumps)—and extends the Rule's existing coverage under the furnace category to include two new types of furnaces—pulse combustion furnaces and condensing furnaces.

In the central air conditioner proceeding, the Commission is extending the Rule's coverage to include these products, using a disclosure scheme that consists of labels showing simple energy efficiency information, together with a requirement to disclose further efficiency and cost information by means of either fact sheets or a listing in a general directory containing such information.

In the furnace proceeding, since the scope of the proceeding is considerably narrower, the Commission is simply extending the existing labeling scheme for furnaces to these two new types of furnaces.

**DATES:** The effective dates for the various different obligations under these amendments are detailed in § 305.18 of the Appliance Labeling Rule.

**FOR FURTHER INFORMATION CONTACT:** James G. Mills, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3035.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

Section 324 of the Energy Policy and Conservation Act of 1975 ("EPCA")<sup>1</sup> requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances classified as "covered products" by section 322(a) of EPCA: (1) Refrigerators and refrigerator-

freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Before these labeling requirements may be prescribed, the statute requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average costs a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final Rule covering seven of the thirteen appliance categories that were then covered by DOE test procedures: Refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.<sup>2</sup>

The Rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels and in retail sales catalogs for all covered products, except furnaces, manufactured on or after May 19, 1980. For furnaces, the energy usage information must be disclosed on separate fact sheets, while the labels on the products disclose energy-saving tips and direct consumers to the fact sheets. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating ("EER") information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

In 1980 and 1981, the Commission published two separate proposals to amend the Commission's Appliance Labeling Rule by extending its coverage to products for which DOE has issued new test procedures. One proposal was to add a new category of appliances, central air conditioners (including heat pumps) to the Rule<sup>3</sup> and the other was to extend the Rule's existing labeling requirements for furnaces to two new types of furnaces, pulse combustion and condensing.<sup>4</sup> Hearings were held in both

proceedings. After the close of both comment periods, the Commission's staff prepared staff reports analyzing the evidence in each matter and containing Recommended Rule Amendments with respect to each matter.

On March 17, 1987, President Reagan signed into law the National Appliance Energy Conservation Act of 1987 (Pub. L. No. 100-12, 101 Stat. 103 ("NAECA.")) NAECA establishes performance standards that prescribe a minimum level of energy efficiency or a maximum quantity of energy usage for covered products, including central air conditioners, heat pumps and furnaces. This new legislation leaves the Commission's Appliance Labeling Rule essentially unchanged, and preserves the Commission's obligation to propose coverage of products for which OOE has prescribed a test procedure.

Because some of the issues raised in both proceedings are similar, the two staff reports were made available to the public at the same time.<sup>5</sup> In the Federal Register notices announcing the availability of the two reports, the Commission sought public comment on the analyses and Recommended Rules. In today's discussion, the resulting comments on the staff reports are referred to as "post-record comments." Since the proceedings have tended to converge, today's action encompasses both proceedings.

In the central air conditioner proceeding, the Commission has extended the Rule's coverage to include these products<sup>6</sup> and has developed a disclosure scheme that consists of labels showing simple energy efficiency information,<sup>7</sup> together with a requirement to disclose further efficiency and cost information by means of either fact sheets<sup>8</sup> or a listing in a general directory<sup>9</sup> containing such information. In the furnace proceeding, the Commission has also extended the Rule's coverage, but is doing so by simply extending the existing disclosure scheme for furnaces to include these two new types of furnaces.<sup>10</sup>

Because the issues involved in the central air conditioner proceeding are broader and more complex, most of today's discussion will focus on that proceeding. The discussion concerning furnaces appears separately.

<sup>2</sup> 44 FR 66466, 16 CFR Part 305 (November 19, 1979). The Statement of Basis and Purpose for the final Rule describes the reasons the Commission declined to cover the other categories of covered products. *Id.* at 66467-69.

<sup>3</sup> 45 FR 53340 (August 11, 1980).

<sup>4</sup> 46 FR 38105 (July 24, 1981).

<sup>5</sup> 48 FR 37663 (August 19, 1983).

<sup>6</sup> Sections 305.3 (h) & (i) of the Final Rule.

<sup>7</sup> Section 305.11(a)(5)(iii) of the Final Rule.

<sup>8</sup> Section 305.11(b) of the Final Rule.

<sup>9</sup> Section 305.11(c) of the Final Rule.

<sup>10</sup> Section 305.3(g) of the Final Rule.

<sup>1</sup> Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).



## II. The Central Air Conditioner Amendments

### A. Background of the Proceeding

Central air conditioners (a category that also includes heat pumps) are included in the 13 categories of home appliances for which the Commission is required by EPCA to prescribe energy labels. A disclosure scheme for central air conditioners was originally contemplated in the initial appliance labeling rulemaking, which began in July, 1978.<sup>11</sup> Central air conditioners were included in the Proposed Rule because the Department of Energy (DOE) had published earlier a final test procedure for that product category. However, the DOE test procedure did not include heat pumps, and, in April, 1979, DOE proposed that it be amended to include a test for heat pumps as well as a revised statistical sampling plan. Since the DOE test procedure for central air conditioners was uncertain at the time, the Commission's final Appliance Labeling Rule did not cover the central air conditioner category.

DOE published its final revised test procedure in December, 1979, and the Commission commenced amendment proceedings in August, 1980<sup>12</sup> to consider extending the Rule's coverage to include the central air conditioner category. Hearings followed in November, 1980, and, after analysis and review of the record, the Staff Report was published in August, 1983.<sup>13</sup> Comments were received on the Staff Report through October 3, 1983.

For reasons discussed in the Central Air Conditioner ("CAC") Staff Report<sup>14</sup> and detailed in § 305.11 of the Appliance Labeling Rule Staff Report of February, 1979, the Recommended Rule Amendment appearing as Appendix A to the CAC Staff Report would have extended coverage to central air conditioners. The amendment would have required disclosures to be in the form of (1) "generic labels", which are non-product-specific labels on each appliance that refer the consumer to fact sheets and (2) fact sheets. The fact sheets would show an energy efficiency rating for the specific product or products covered, the range of energy efficiency ratings for similar systems, and a means by which consumers could estimate the annual operating cost of the system they choose. This disclosure scheme is the same as the one presently required for furnaces.

An alternative to this approach was suggested by the primary trade association for this industry, the Air Conditioning and Refrigeration Institute ("ARI"). The alternative proposal would permit manufacturers of central air conditioners to disclose the required energy usage information to consumers by means of ARI's Directory of Certified Unitary Air-Conditioners and Air-Source Unitary Heat Pumps ("Directory"). This Directory is published by ARI in connection with its certification program, through which the industry is able to police members' energy cost and usage claims, and in it is disclosed, among other information, the energy efficiency for listed products based on the results of tests conducted in accordance with DOE procedures.<sup>15</sup>

In the CAC Staff Report, the Commission's staff rejected this alternative on the basis that the proposal was deficient in meeting several of the statutory labeling requirements. More specifically:

1. The ARI Directory did not show the ranges of EER's of the central air conditioners on the market, as required by section 324(c)(1)(B) of EPCA;

2. There was no requirement that the ARI Directory be displayed in a manner likely to assist consumers in making a purchasing decision, as required by section 324(c)(3) of EPCA; and,

3. Directories were not distributed with products, but were available only from ARI for a fee. The staff believed that this distribution scheme would inhibit dissemination of the ARI Directory to consumers and would, therefore, frustrate the statutory purpose of providing energy usage information to prospective purchasers.<sup>16</sup>

On the basis of materials submitted during the post-record comment period detailed later in this discussion, the Commission has been persuaded that ARI's proposal is a workable idea, and has decided to give manufacturers of central air conditioners the "Directory Option" as one element of an energy usage disclosure program that also includes the use of "product-specific" labels on each product.

### B. Coverage of Central Air Conditioners

According to EPCA, central air conditioners must be covered by the Commission's labeling rule unless the Commission determines that labeling them is not "technologically or

economically feasible" or is "not likely to assist consumers in making purchasing decisions."<sup>17</sup>

During the course of the proceedings, a number of industry members suggested that central air conditioners should be exempted for either of two different reasons:

1. The information required on the proposed labels and fact sheets would not assist consumers in making purchasing decisions; or,

2. Coverage would result in unfair and unreasonable burdens on coil manufacturers and contractor-installers.

#### 1. Reasons Suggested for Exempting Central Air Conditioners

a. *Energy Usage Disclosure Would Not Assist Consumers.* In the post-record comments, no one suggested that the proposal for coverage of central air conditioners would be technologically or economically infeasible. However, a number of commenters did contend that the proposed fact sheets, which would be the consumer's only source of energy usage information under the scheme originally proposed, would not be likely to assist consumers in making purchasing decisions because retailers would not show them to consumers. To support this view, four large, integrated manufacturers and ARI<sup>18</sup> pointed to their experience with the furnace fact sheet program, which has been in existence since the Rule took effect on May 19, 1980. They contended that, while fact sheets are generally being produced by manufacturers and sent through the chain of distribution,<sup>19</sup> they are not being shown to consumers by the retail sector.

One of the reasons advanced for retailers' failure to show consumers fact sheets is that the fact sheets are too confusing—either for the retailer<sup>20</sup> or for the consumer.<sup>21</sup> Consequently, according to these commenters, retailers are avoiding the risk of losing a sale through a confusing discussion of the fact sheet.

<sup>17</sup>EPCA section 324(a)(2).

<sup>18</sup> Rheem, 13-52; Borg, 13-50; Lennox, 13-60; Carrier, 13-61; ARI, 13-62. The comments referred to in these footnotes may be found in the public record under Public Record # 209-18. The first number in the citations to these comments identifies the category of the comment. For example, 13 refers to industry comments about central air conditioners. The next number is the number assigned to the comment itself. The last number or numbers is the internal page number of the comment. For an explanation of the citation code, see Appendix C of the Central Air Conditioner Staff Report or Appendix B of the Furnace Staff Report.

<sup>19</sup> Carrier, 13-61/3.

<sup>20</sup> Carrier, 13-61/2.

<sup>21</sup> *Id.* Borg, 13-50/3.

<sup>15</sup> CAC Staff Report, pp. 21-22. Section 323(c) of EPCA requires these listings, as well as all other written or broadcast representations relating to energy cost or consumption, to be based on the DOE test procedures.

<sup>16</sup> *Id.*, p. 23.

<sup>11</sup> 43 FR 31806 (July 21, 1978).

<sup>12</sup> 45 FR 53340 (August 11, 1980).

<sup>13</sup> 48 FR 37663 (August 19, 1983).

<sup>14</sup> Pp. 7-9.



Another explanation put forward for the retailers' purported failure to use fact sheets is based on the opposite premise. According to this scenario, retailers who have made fact sheets available have apparently been questioned by consumers as to the identity of the furnace brands with the highest efficiency on the bar charts appearing on fact sheets. Retailers often do not know the identity of the brand, or do not sell it. Retailers are beginning to find, therefore, that they sometimes stand to lose a sale by using fact sheets, because consumers may go elsewhere to buy the more efficient products. The end result, according to these commenters, is that furnace retailers, in order to avoid the risk of losing a sale, are often not using fact sheets.

In the Commission's view, these comments do not argue against—and in many cases support—the proposition that, if consumers were shown furnace fact sheets, many would take energy efficiency into consideration when shopping for and purchasing these products. The Commission believes, then, that if non-disclosure problems threaten the efficacy of a disclosure scheme that relies on fact sheets as the consumer's only source of energy usage information, they would be corrected by the disclosure approach discussed herein for central air conditioners. This approach requires that central air conditioners bear a label that discloses the EER of the unit coupled with generic range information. The label also refers consumers to either fact sheets or an industry directory for additional energy cost and efficiency information.

Labels attached to products showing EER's and ranges and directing consumers to fact sheets or directories for cost information will at least alert consumers to the existence of differences in energy consumption among models and to the availability of additional information. This should act as an incentive for retailers to use the energy information to steer energy-conscious consumers to the more efficient products in the retailer's line. If retailers grow accustomed to showing the required energy usage information to consumers—whether for furnaces or central air conditioners—they will become familiar enough with it to be able to explain it and the problem of "confusing" fact sheets will be alleviated.

While the concerns expressed above may raise some questions about the feasibility of a labeling program for central air conditioners, the Commission believes, on balance, that energy usage information for central air conditioners

is useful and that it will be of considerable assistance to consumers in making central air conditioner purchasing decisions. The post-record comments from all consumers, as well as three state agencies and two utilities, indicate support for making such information available.<sup>22</sup>

Some commenters questioned the utility of energy usage disclosures for central air conditioners sold on the new home construction markets. ARI<sup>23</sup> and three manufacturers<sup>24</sup> noted that somewhere between 40% and 50% of new central air conditioners are installed and sold in connection with the construction of new homes. They make the point that, when the consumer sees a finished home, the central air conditioner has been selected and the consumer has no say in the process.<sup>25</sup> Borg-Warner suggests that "[o]bviously, labels and fact sheets would have no impact on these sales."<sup>26</sup> The implication is that, in many cases, energy usage disclosures would not assist consumers in making purchasing decisions, and, therefore, the products should be exempted from coverage.

With respect to new homes, the Commission is in agreement with the opinion, expressed in the CAC Staff Report,<sup>27</sup> that one of the objectives of the energy usage disclosure program is to raise consumer awareness that these products consume energy in differing amounts and thereby to encourage consumers to consider appliance energy usage as a factor in purchasing a new home. With this information, an energy-conscious consumer could select one house over another; or, such a consumer could order a more efficient unit, where such a choice was possible. These options would be available to consumers who visit various model homes in new or soon-to-be-built subdivisions because they would probably see labels on the major appliances in the model homes.

Moreover, consumers' receipt of this energy usage information after consummation of the sale would still encourage builders to install energy efficient central air conditioners. This would also hold true in the case of sales by heating and cooling contractors, who normally sell their products without first showing them to consumers. The concept is well stated by the State

Office of Emergency and Energy Services of the Commonwealth of Virginia:

We agree with the F[T]C staff that the proposed labeling will be helpful to consumers even when the appliances are built into a new house or when they are bought through a heating and cooling contractor. Home builders are necessarily concerned with the impression of quality left by their houses in the minds of potential buyers. A high efficiency rating on a major energy-using appliance helps to form that impression. We believe that labeling of central air conditioners, heat pumps and all other types of furnaces therefore, provides an important incentive to install equipment with higher efficiency. Similarly, the reputation of the heating contractor will be enhanced if an individual who purchases his equipment from the contractor finds or confirms that the equipment is of high efficiency.<sup>28</sup>

#### *b. Energy Usage Disclosure Would Burden a Part of the Industry.*

Most central air conditioners do not constitute one unit but are so-called "split systems". Simply stated, this means that the two main operating components of the system are separate units—the evaporator coil and condenser unit. The condenser unit is often placed outside the house, while the evaporator coil is usually installed in the duct work inside the house. While all the parts of a split system central air conditioner are sometimes manufactured by the same company and purchased at once by a consumer, the components of a system are frequently purchased separately from different manufacturers. Thus, a consumer may find that his or her condenser unit has failed and will replace the unit, or an installer may buy a condenser unit from one manufacturer and a coil from another in order to complete a new installation.

One concern raised for the first time in the post-record comments is the plight of independent coil manufacturers. Coil manufacturers are small businesses that supply evaporator coils that are combined with the condenser/compressor units manufactured by larger companies. The resulting split-system air conditioners are referred to as "mix-matched" systems.<sup>29</sup> These

<sup>22</sup> 16-8, 9-16/1. See, also, California Energy Commission, 19-17; Pacific Power and Light, 13-20, 14-20; and Pennsylvania Power Co., 19-18.

<sup>23</sup> 13-62/2, 4.

<sup>24</sup> Borg, 13-50/1; CHP/IEC, 13-59/1; Climate Control, 13-68/ 2-3.

<sup>25</sup> Borg, 13-50/1; ARI, 13-62/2.

<sup>26</sup> Borg, 13-50/1.

<sup>27</sup> Pp. 12-14.

<sup>28</sup> 19-16/1. See also the comments of Hirschi Realtors, 13-18, and the Libra Foundation, 13-19.

Energy use information on central air conditioners and heat pumps will be very helpful to us in deciding on equipment for new construction as well as replacement units.

<sup>29</sup> A split system that is put together using components produced by the same company is called a "matched" system.



small companies have been able to compete in the market successfully by supplying a product that is tailor-made to solve a particular need, such as special environmental conditions, space restrictions or other, similarly specialized circumstances.<sup>30</sup> Orders for such coils are usually limited in number, so that their manufacture is more economical for smaller companies than for large. Condensers are manufactured exclusively by the large, integrated companies, that also manufacture coils to match up with them.

Nine such coil manufacturers commented on the CAC Staff Report,<sup>31</sup> and another 14 comments were received from contractors who appeared to share in the concern expressed by the coil manufacturers.<sup>32</sup> The coil manufacturers believe that, if they are covered by the Commission's Rule, each one will have to generate many hundreds of ratings for every combination that could conceivably be sold using each of its evaporator coils and each of the compatible condenser units manufactured by other companies, including situations in which they would be providing replacement units for part of existing split systems in consumers' homes.<sup>33</sup> They allege that, as small companies, their financial burden would be disastrous.

The Commission believes that today's amendments adequately address the concerns expressed by the coil manufacturers. The DOE test procedure<sup>34</sup> permits a manufacturer of split system central air conditioners to test only the best-selling combination and to computer rate the others. The amended Rule requires that only this "best-selling" rating be disclosed on the product-specific label attached to the condenser in split systems. Ratings of other condenser-coil combinations, derived using an engineering analysis technique (that may use a computer simulation) permitted by the DOE test procedure, would be allowed (on fact sheets or in the Directory), but not required. Thus, an installer could match a condenser with any of a number of appropriate coils to make a

combination, and would be confident that the requirements of the Rule were met by the rating on the label on the condenser, which would be provided by the condenser manufacturer. Under the Rule, the coil manufacturer would not have to test for or supply energy usage information yet the consumer would receive valid energy efficiency information for comparison purposes. We believe that this approach addresses the concerns expressed by the coil manufacturers.

The Commission is not troubled by the compromise inherent in the notion of disclosing a single efficiency figure on a given condenser for all the combinations that match it with any coil that might work with it. The Commission believes that this approach is well justified by the fact that the substitution of one coil for another in a given system will, generally, change the system's efficiency by no more than plus or minus five percent.<sup>35</sup> Nevertheless, in order to avoid any misunderstanding by consumers as to the precise accuracy of the energy usage disclosure in such situations, the Commission is requiring language on the labels and fact sheets that alerts consumers to the fact that the rating will vary slightly with different coils. This language is discussed in more detail in the section on label placement, below.

## 2. Product-Specific Labels for Central Air Conditioners

The Commission has already mentioned the requirement that product-specific labels appear on central air conditioners. The Commission considers that these labels are a key element in an effective energy usage disclosure scheme for these products.

As noted earlier, comments received from several industry members suggest that the approach proposed by Commission staff for central air conditioners in the Recommended Rule (generic labels with fact sheets serving as the exclusive source of energy usage information) would be no more successful than the similar program already in place for furnaces. In an effort to minimize this possibility, the Commission has modified the format previously proposed for the label so that it is no longer generic, but is "product-specific"—that is, it shows energy efficiency information that is specific to the product to which it will be attached.

a. *The Label Itself.* The product-specific label, which appears at the end of the Amended Rule as a "Sample

Label", will show a "generic" range of EER's for the cooling function of *all* central air conditioners. When used on heat pumps, which usually perform both heating and cooling functions, the label will also show generic ranges of EER's for the heating function of *all* heat pumps that perform both functions. Above this generic range will be the EER of the particular unit to which the label is attached. Heat pump labels will show the EER for both the cooling and heating functions. Below the product-specific EER and the generic ranges will be the following statement:

Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information regarding the efficiency and operating cost of this equipment. Ask for this information.

These product-specific labels differ from the labels originally recommended by Commission staff in the CAC Staff Report in three ways:

1. They show an EER<sup>36</sup> (or EER's, for heat pumps) for the product to which they pertain;
2. They show a range of EER's (or ranges, for heat pumps) for all such products; and
3. They contain stronger language referring consumers to fact sheets and directories (the reference to directories is also new).

These new elements are the backbone of today's amendments.

Because the label would show the EER of the product, as well as range information, labeled products would always be sold with the minimum information required by EPCA<sup>37</sup>

<sup>30</sup> The opinion was expressed in a number of comments (Borg, 13-50/4; ARL, 13-62/11; Climate Control, 13-68/1; Trane, 13-66/2; Rheem, 13-52/4) that the term "EER" ("energy efficiency rating") should be abandoned for central air conditioners in favor of the terms "SEER" ("seasonal energy efficiency ratio") for cooling-only central air conditioners and the cooling side of heat pumps and "HSPF" ("heating seasonal performance factor") for the heating side of heat pumps. The Commission is aware of the different terms used in the industry for the various types of air conditioners. It is the Commission's belief, however, that, from the consumer's point of view, it would be far simpler to look only for a single term, regardless of what product is being examined. For this reason, the Rule requires as a disclosure only the term "EER", regardless of which appliance is being described in terms of its energy efficiency.

<sup>37</sup> Under section 324(c)(1) of EPCA, the Commission's Rule must require labels on products, to show energy cost information (or another energy usage measure, which, in the case of central air conditioners, is the EER) and range information. Section 324(c)(5) of EPCA allows the Commission to require, with the product, additional energy consumption information if the Commission determines that it would assist consumers in making purchasing decisions and would not unduly burden manufacturers. Efficiency and range

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<sup>31</sup> First, 13-44/1-2; Apollo, 13-35; Alamo, 13-31.

<sup>32</sup> Apollo, 13-35; First, 13-44 (Supp.) 13-55; Aspen Manufacturing, Inc., 13-46, 13-49; Magna-Flow Industries, 13-46, 13-51; Red-T-Coil, Inc., 13-46; Coil Company, Inc., 13-47; Airmax, Inc., 13-54; Magic Aire Division, 13-56; International Environmental Corporation, 13-59.

<sup>33</sup> Air Flow, 13-21; McCalls, 13-22; Brooks, 13-23; Air-O-Quip, 13-24, 13-41, 13-53, 13-58; Ross, 13-25; Steinberg, 13-29; Comfort Pac, 13-30, 13-40; Modern Mechanical, 13-32, 13-33, 13-34, 13-38, 13-39; Frazier, 13-36; Hobbs, 13-37; Associated, 13-43; Alamo, 13-31; Cole, 13-42; Magic Aire, 13-56.

<sup>34</sup> See, e.g., comment of First Company, 13-44/2-3.

<sup>35</sup> 10 CFR 430.23(m)(2).

<sup>36</sup> See, for example, First (supp.), 13-55/4-6 and Aspen, 13-49/3-4.



attached to them. Thus, at some time, consumers would be aware of this information. Even in those cases in which this minimum information was not seen until after the sale, it would still be seen, and this could lead to complaints if the other required information on fact sheets or in directories had not been shown during the sale.

The Commission is requiring that the ranges on the product-specific labels be generic for two reasons. First, in central air conditioners, there is little difference in efficiency due to the sizing, or capacity, of the products alone. Thus, there is roughly the same spread of efficiencies throughout all the various capacities, and a single range encompassing this spread is sufficient to inform consumers of what efficiencies they can generally expect to find. Second, a single, generic range on the labels will be the same on all labels, and this will simplify label printing for the industry. The actual range figures will be published after the Commission has reviewed the data that § 305.8(a) requires manufacturers to submit two months from publication of today's amendments.

Because the language, discussed above, referring consumers to fact sheets or directories would state that the availability of these additional sources of information is required by Federal law, the labels would increase the likelihood that the additional cost information required by the Rule would be seen by consumers. From this point of view, the labels and fact sheets (or directories) would be a system of disclosure that would ensure that consumers would, at the very least, see the basic information required by the statute, and would also enable them to see the additional information required by the Rule, if they wished.

b. *Placement of the Label.* For central air conditioners consisting of a condenser unit and evaporator coil contained in a single unit, the label must be placed conspicuously on the single unit. With split systems, the condenser unit and evaporator coil are in different locations, once the unit is installed. The condenser unit is most often located outside the house on a concrete slab, while the evaporator coil is usually out of sight in the duct work inside the house. Therefore, the label should be affixed to the condenser unit. As discussed earlier in section 1(b), the

information is essential to consumers purchasing these products. The cost information on fact sheets and in the ARI Directory is equally important for giving a full picture of the energy usage of central air conditioners.

efficiency rating of the "best selling" combination must appear on the product-specific label. The rating would be common to all combinations using that condenser.

In order to alert consumers to the fact that the EER on the label and fact sheet for split systems is the EER for the "best-selling" condenser-coil combination, and that the EER of the combination they actually purchase could differ slightly from that shown, the Commission is requiring that language to that effect appear on both the labels and the fact sheets. Consequently, § 305.11(a)(5)(iii)(G) (pertaining to labels) and § 305.11(b)(3)(ix) (pertaining to fact sheets) of the Rule require that one of the following disclosures be made on labels and fact sheets that relate to the sale of "best-selling" combinations of split system central air conditioners and heat pumps:

(1) For labels and fact sheets disclosing the energy rating for cooling, the disclosure should read: "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils."

(2) For labels and fact sheets disclosing the energy rating for both heating and cooling, the disclosure should read: "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions."

(3) For labels and fact sheets disclosing the energy rating for heating, the disclosure should read: "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions."

Labels and fact sheets disclosing the actual rating of specific combinations need not contain such a disclosure.

c. *Burden on Manufacturers.* Today's amendments requiring product-specific labels would not unduly burden the industry. Manufacturers already must perform the tests, since section 323(c) of EPCA requires all energy usage representations, including listings in a directory, to be based on DOE test results. In addition, the label is in as simple a format as the Commission could develop without sacrificing the required information. The only item on the label that will vary from product to product is the EER itself, since the ranges are generic. This places on the manufacturers the smallest possible

burden that will still result in the required disclosures.

### 3. The ARI Directory Option

ARI has recommended throughout this proceeding that, if the Rule is amended to cover the central air conditioner category, it should be modified to allow manufacturers the option of satisfying the energy usage disclosure requirements through a listing in ARI's Directory.<sup>38</sup> The Commission's staff originally recommended that the Commission reject ARI's proposed modification because, among other reasons, there were no ranges of comparability, as required by EPCA, and because the staff was concerned that the Directory would not be seen by consumers.<sup>39</sup> This latter concern stemmed from the staff's belief that the Directory would not necessarily be displayed or receive widespread distribution.

However, ARI has made modifications in its proposal to accommodate the staff's objections and has indicated a willingness to make further changes. Because of these changes, and because the amendments announced today now include the requirement that central air conditioners bear a label showing simplified efficiency information and referring consumers to fact sheets or a directory, the Commission now believes that more consumers will receive full energy usage information on these products if manufacturers were afforded the "Directory Option." Of course, the option of using fact sheets will still be left available for those manufacturers who choose not to participate in the ARI Directory (or any other complying directory) program.

a. *Support for the Directory Option.* Six integrated manufacturers<sup>40</sup> and one contractor/ installer<sup>41</sup> endorsed the ARI alternative proposal without qualification. The California Energy Commission<sup>42</sup> gave the program a

<sup>38</sup> See pp. 21-23 of the CAC Staff Report.

<sup>39</sup> *Id.*, pp. 23-24.

<sup>40</sup> Lennox, 13-60; Rheem, 13-52; Borg, 13-50; Carrier, 13-61; Trane, 13-68; Climate Control, 13-68.

<sup>41</sup> Cole, 13-42.

<sup>42</sup> CEC, 19-17. See also Appendix B to ARI, 13-62. In sum, CEC believes that, while ARI has a potentially laudable program, its tests should not be conducted in such secrecy and it should allow representation of consumer and government interests on the committees that decide how the DOE tests are performed and what will be published in the Directory. ARI has responded that any reasonable requests to observe testing are honored, that the DOE tests that it uses are developed by committees of the American Society for Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), which are open to all

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conditional endorsement. The industry members supported the Directory alternative for the following reasons: The Directory puts all of the energy usage information in one publication that is accurately updated semi-annually; the Directory is the product of a reliable and established certification and verification system using an independent testing agency; and, the Directory is already familiar to, relied on and used by builders, retailers and contractors for referencing equipment efficiencies.

In addition, ARI noted that its proposal now includes an Operating Cost Guide, which is a booklet that would be sent free, along with the Directory, to some 46,000 retailers. The Cost Guide would enable consumers to calculate for themselves the annual operating cost of any central air conditioner listed in the Directory.<sup>43</sup> As another point in favor of the directory alternative, ARI estimated that the directory approach would reduce the expense to manufacturers by perhaps as much as \$40,000 each, for those who elect to exercise the option.<sup>44</sup>

Finally, ARI noted<sup>45</sup> that the ARI Directory is superior to the idea of a binder containing fact sheets for all models of central air conditioners sold by a particular retailer, even though the binder idea is a useful concept. This is because the Directory not only contains energy information on all models of the program but also is updated semi-annually. With the fact sheet binders, retailers would have to rely on manufacturers to provide them with updated versions of fact sheets as they become available and would be responsible for keeping these current in the binder. Some binders would undoubtedly be out-of-date. The Directory is provided every six months in a completely updated format. Retailers do not themselves have to insert new pages throughout the year; therefore, they can be sure that all the information contained in the Directory is current and complete.

b. *Opposition to the Directory Option.* Opposition to the Commission's acceptance of the ARI proposal was

expressed by eleven contractor/retailers,<sup>46</sup> six independent coil manufacturers,<sup>47</sup> the Better Heating-Cooling Council<sup>48</sup> and the State Office of Emergency and Energy Services of the Commonwealth of Virginia.<sup>49</sup>

The concerns expressed by the coil manufacturers and contractors have been previously discussed. As noted at the end of that discussion, coil manufacturers will not have to test for, computer-simulate or provide information about the energy usage of the products they sell. Nor will they have to be listed in a directory, because the EERs of split system central air conditioners will be disclosed on labels affixed to condensers by condenser manufacturers, and coils do not have to be labeled. At the same time, consumers will still receive energy usage information about split system central air conditioners.

The State of Virginia simply stated a preference for fact sheets over the ARI Directory. The Better Heating-Cooling Council noted that the Directory, while suitable to the trade, would be meaningless to prospective buyers of heating and cooling equipment. The Commission notes that this comment was based on ARI's original proposal, before ARI's planned modifications.

c. *Modifications to ARI's Original Proposal.* The principal modification offered by ARI with respect to its original proposal is the Operating Cost Guide.<sup>50</sup> In addition to this change, the Commission is including in the Rule two minimum distribution requirements for all directories, in order to alleviate its concerns over the publication's distribution. First, the publication must be distributed to all retailers that sell products listed in the directory. Second, the directory must be available at cost to all other interested parties.

#### C. Fact Sheets

There were several comments directed at the methodology required to obtain the figures used in the Sample Fact Sheets and Appendices H and I. These comments pertain to the DOE test procedure, rather than to the

Commission's Rule. Since the Commission is not empowered to modify DOE's test procedures, it has not given these comments substantive consideration.

### III. The Pulse Combustion and Condensing Furnace Amendment

#### A. Background of the Proceeding

This proceeding was instituted in July, 1981<sup>51</sup> because DOE amended its furnace test procedure in August, 1980<sup>52</sup> to include two relatively new types of furnaces—pulse combustion furnaces and condensing furnaces. Labeling of these types of furnaces was not discussed during the original rulemaking proceedings in 1978, since the products were not sufficiently developed for marketing. Consequently, in order to develop evidence relating to these products, a rule amendment proceeding was instituted to afford interested persons an opportunity to comment on the appropriateness of covering these products under the Commission's Appliance Labeling Rule.<sup>53</sup>

#### B. Coverage

The question whether to include pulse combustion and condensing furnaces under the coverage of the Commission's Rule has never been at issue throughout this entire amendment proceeding. The only post-record comment directly dealing with this issue was from the Gas Appliance Manufacturers Association (GAMA), one of the two principal trade associations representing manufacturers of furnaces and boilers:<sup>54</sup>

\* \* \* GAMA agrees with, and fully supports, the proposed amendment to Section 305.3(g) to the Federal Trade Commission's Appliance Labeling Rule to include pulse combustion and condensing furnaces in the rule.<sup>55</sup>

The Commission has no reason to distinguish these types of furnaces from all other furnaces presently covered by the Rule and, consequently, amends the Rule today so that they are covered in the same manner as other covered furnaces.

ASHRAE members and others, and, that, with respect to the contents of its Directory, ARI is open to all constructive suggestions that will serve its members' customers. The Commission has considered these two comments and is satisfied that the internal procedures in ARI's present program, especially when seen in the context of the Commission's Rule and DOE's test procedures, allow for sufficient representation and observation.

<sup>43</sup> An example of the Cost Guide appears as Appendix A to ARI's formal comments.

<sup>44</sup> 13-62/8. See also Trane, 13-66/3, Borg, 13-50/2, and Lennox, 13-60/2.

<sup>45</sup> 13-62/5.

<sup>46</sup> Air Flow, 13-21; McCalls, 13-22; Brooks, 13-23; Air-O-Quip, 13-24, 13-41, 13-53, 13-58; Ross, 13-25; Steinberg, 13-29; Comfort Pac, 13-30, 13-40; Modern Mechanical, 13-32, 13-33, 13-34, 13-38, 13-39; Frazier, 13-36; Hobbs, 13-37; Associated, 13-43.

<sup>47</sup> Magic Aire, 13-56; First, 13-44, 13-55; Aspen, 13-49; Magna-Flow, 13-51; Coil, 13-47; Airmax, 13-54.

<sup>48</sup> 13-27.

<sup>49</sup> 19-16.

<sup>50</sup> ARI also offered to include ranges in its Directory. Since range information is now required on the product-specific labels, it will no longer be required in the directories or on the specific fact sheets.

<sup>51</sup> 46 FR 38105 (July 24, 1981).

<sup>52</sup> 45 FR 53714 (August 12, 1980).

<sup>53</sup> See Pulse Combustion and Condensing Furnaces ("Furnace"), Staff Report, August, 1983, pp. 3-4.

<sup>54</sup> The other principal furnace industry trade association is the Hydronics Institute, Berkeley Heights, New Jersey.

<sup>55</sup> GAMA, 13-63/1.



### C. The GAMA Directory Proposal for Furnaces

The question whether manufacturers of all furnaces, including these new products, should be afforded the option of disclosing required information in an industry directory was raised by GAMA.

At the time of the hearings in 1981, GAMA was about to launch a voluntary certification program for furnace manufacturers that was similar in many respects to ARI's certification and directory publication program. The furnace program was to involve submission to GAMA of efficiency information derived from the DOE test procedures, ongoing verification testing with an internal enforcement mechanism, and the publication and distribution of a directory listing participating manufacturers along with efficiency information on each of the models they produce. In addition to providing energy efficiency information, the Directory would include a procedure that would allow for a determination of the estimated annual cost of operation for any model listed.<sup>56</sup>

The GAMA Directory would be distributed to all GAMA members in quantity, and GAMA indicated a willingness to make reference copies available to all public libraries. For consumers and others, the Directories would be available at their production cost to GAMA, which was estimated at around \$5 a copy.<sup>57</sup>

Unlike the central air conditioner amendment proceeding, which concerns labeling for an entirely new class of products, this proceeding has been conducted for the sole and narrowly defined purpose of determining whether two relatively new types of furnaces should be included under the Rule. Questions posed by the Commission in the notice were confined only to the narrow issues raised by this proposal. Consequently, the public was given an opportunity to comment only on this issue of coverage. The Commission believes that the GAMA proposal goes beyond the scope of this proceeding and, therefore, that it cannot be considered within its context. However, the Commission is continuing to evaluate the efficacy of the current furnace labeling program, and, as a potentially viable alternative to the current furnace labeling scheme, will give the GAMA proposal serious consideration in any recommendations for subsequent Rule revisions.

### IV. Paperwork Reduction Act

Because today's amendments extend the scope of the Appliance Labeling Rule's existing labeling and disclosure requirements, they were submitted to the Office of Management and Budget ("OMB") for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The submission, which was in the form of a request for an amendment to the existing clearance for the Appliance Labeling Rule was made on October 21, 1986 (OMB No. 3084-0069). On December 24, 1986, OMB approved the information collection requirements for use through December 31, 1989.

#### List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is revised to read as follows:

#### PART 305—RULES FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

##### Scope

- Sec.
- 305.1 Scope of the regulations in this part.
- 305.2 Definitions.
- 305.3 Description of covered products to which this part applies.

##### General

- 305.4 Prohibited acts.

##### Testing

- 305.5 Determinations of estimated annual energy cost and energy efficiency rating.
- 305.6 Sampling.
- 305.7 Determinations of capacity.
- 305.8 Submission of data.

##### Representative Average Unit Energy Costs

- 305.9 Representative average unit energy costs.
- 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

##### Required Disclosures

- 305.11 Labeling for covered products.
- 305.12 Additional information relating to energy consumption.
- 305.13 Promotional material displayed or distributed at point of sale.
- 305.14 Catalogs.

##### Additional Requirements

- 305.15 Test Data records.
- 305.16 Required testing by designated laboratory.

##### Effect of This Part

- 305.17 Effect of other law.
- 305.18 When the rules take effect.

##### Sec.

- 305.19 Stayed or invalid parts.
- Appendix A1—Refrigerators.
- Appendix A2—Refrigerator-Freezers.
- Appendix B—Freezers.
- Appendix C—Dishwashers.
- Appendix D1—Water Heater-Gas.
- Appendix D2—Water Heater-Electric.
- Appendix D3—Water Heater-Oil.
- Appendix E—Room Air Conditioners.
- Appendix F—Clothes Washers.
- Appendix G—Furnaces.
- Appendix H—Cooling Performance and Cost for Central-Air Conditioners.
- Appendix I—Heating Performance and Cost for Central-Air Conditioners.
- Appendix J—Suggested Data Reporting Format.

Authority: Sec. 324 of the Energy Policy and Conservation Act, Pub. L. 94-163, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619 (42 U.S.C. 6294).

##### Scope

#### § 305.1 Scope of the regulations in this part.

The rule in this part establishes requirements for consumer appliance products, as hereinafter described, in commerce, as "commerce" is defined in the Energy Policy and Conservation Act, 42 U.S.C. 6291, with respect to:

- (a) Labeling the products with information indicating their estimated annual energy costs or energy efficiency ratings, and related information;
- (b) Including in printed matter displayed or distributed at the point of sale of such products, or including in any catalog from which the products may be purchased, information concerning their energy consumption;
- (c) Including on the labels, separately attaching to the products, or shipping with the products, additional information relating to energy consumption, energy efficiency, or energy cost; and
- (d) Making representations, in writing or in broadcast advertising, respecting the energy consumption, energy efficiency, or the cost of energy consumed by consumer appliance products.

##### Definitions

#### § 305.2 Definitions.

- (a) "Act" means the Energy Policy and Conservation Act (Pub. L. 94-163), and amendments thereto.
- (b) "Commission" means the Federal Trade Commission.
- (c) "Manufacturer" means any person who manufactures, produces, assembles, or imports a consumer appliance product. Assembly operations which are solely decorative are not included.
- (d) "Retailer" means a person to whom a consumer appliance product is delivered or sold, if such delivery or sale

<sup>56</sup> Furnace Staff Report, pp. 9-10. See also pp. 11-12.

<sup>57</sup> *Id.*, pp. 11-12.



is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale. The term "retailer" includes purchasers of appliances who install such appliances in newly constructed or newly rehabilitated housing, or mobile homes, with the intent to sell the covered appliances as part of the sale of such housing or mobile homes.

(e) "Distributor" means a person (other than a manufacturer or retailer) to whom a consumer appliance product is delivered or sold for purposes of distribution in commerce.

(f) "Private labeler" means an owner of a brand or trademark on the label of a consumer appliance product which bears a private label.

(g) "Range of comparability" means a group of models within a class of covered products, each model of which satisfies approximately the same consumer needs.

(h) "Estimated annual operating cost" or "estimated annual energy cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(i) "Energy efficiency rating" means the "annual fuel utilization efficiency" for furnaces, "energy efficiency ratio" for the cooling function of central air conditioners, and "heating seasonal performance factor" for the heating function of central air conditioners determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(j) "Range of estimated annual operating costs" or "range of estimated annual energy costs" means the range of estimated annual operating costs of all models within a designated range of comparability.

(k) "Range of energy efficiency ratings" means the range of energy efficiency ratings for all models within a designated range of comparability.

(l) "New covered product," as used in § 305.4, means a covered product the title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

(m) "Catalog" means printed material which contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order a covered product.

(n) "Consumer appliance product" means any appliance product for which the Secretary of the Department of Energy has prescribed final test procedures pursuant to section 323 of the Act (42 U.S.C. 6293).

(o) "Covered Product" means any consumer appliance product defined in § 305.3 of the rule which is, or may be, used for personal use or consumption by individuals.

### § 305.3 Description of covered products to which this part applies.

(a) Refrigerators and refrigerator-freezers.

(1) "Electric refrigerator" means a cabinet designed for refrigerated storage of food at temperatures above 32° F and having a source of refrigeration requiring an electrical energy input only. It may include a compartment for the freezing and storage of food at temperatures below 32° F but does not provide a separate low-temperature compartment designed for the freezing of and long-term storage of food at temperatures below 8° F. It has only one exterior door, but may have interior doors or compartments.

(2) "Electric refrigerator-freezer" means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32° F and with at least one of the compartments designed for the freezing of and the storage of frozen foods at temperatures of 8° F or below and which may be capable of adjustment by the user to a temperature of 0° F or below. The source of refrigeration requires an electrical energy input only.

(b) "Freezer" means a cabinet designed as a unit for the storage of food at temperatures of 0° F or below and which has the ability to freeze food. The source of refrigeration requires an electric energy input only.

(c) "Dishwasher" means a cabinetlike appliance which, with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils and most cooking utensils by chemical, mechanical, and/or electrical means and discharges to the plumbing drainage system.

(d) "Water heater" means an automatically controlled, thermally insulated vessel designed for heating water and storing heated water. It is designed to produce hot water at a temperature of less than 180° F.

(1) "Electric water heater" means a water heater which utilizes electricity as the energy source for heating the water, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage of no greater than 250 volts, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 120 gallons.

(2) "Gas water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btu's per hour or less, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 100 gallons.

(3) "Oil water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 103,875 Btu's per hour or less and which has a manufacturer's specified storage capacity of 50 gallons or less.

(e) "Room air conditioner" means an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and/or heating.

(f) "Clothes washer" means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement.

(1) "Automatic clothes washer" means a class of clothes washer which has a control system capable of scheduling a pre-selected combination of operations, such as regulation of water fill level, and performance of wash, rinse, drain and spin functions, without the need for the user to intervene subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

(2) "Semi-automatic clothes washer" means a class of clothes washer that is the same as an automatic clothes washer except that the user must intervene to regulate the water temperature by adjusting the external water faucet valves.

(3) "Other clothes washer" means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

(g) "Furnace" means a device, utilizing only single-phase electric current or millivoltage DC current in conjunction with either natural gas, propane, or home heating oil, which is designed to be the principal heating source for the living space of a residence and which is not contained within the same cabinet with a central air conditioner, whose rated cooling capacity is above 65,000 Btu's per hour.



Every furnace is either an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler. The heat input rate of a furnace is less than 300,000 Btu's per hour for electric boilers and low pressure steam or hot water boilers, and is less than 225,000 Btu's per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

(h) "Central air conditioner" means a consumer product which is powered by single phase electric current, which is rated below 65,000 Btu's per hour, which is not contained within the same cabinet as a furnace whose rated capacity is above 225,000 Btu per hour, and which is either a "heat pump" or a "cooling only unit."

(1) "Condenser-evaporator coil combination" means a condensing unit made by one manufacturer and one of several evaporator coils, either manufactured by the same manufacturer or another manufacturer, intended to be combined with that particular condensing unit.

(2) "Condensing unit" means a component of a "central air conditioner" which is designed to remove heat absorbed by the refrigerant and to transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

(3) "Cooling only unit" means a "central air conditioner" which consists of an air cooled condensing unit and an evaporator coil, and which is designed to provide air cooling, dehumidifying, circulating, and air cleaning.

(i) "Heat pump" means a "central air conditioner" which is either an "air-source heat pump" or a "water-source heat pump."

(1) "Air-source heat pump" means a "heat pump" which consists of one or more assemblies, which utilizes an indoor conditioning coil, compressor(s), and refrigerant-to-outdoor air heat exchanger to provide air heating, and which may also provide air cooling, dehumidifying, circulating, and air cleaning.

(2) "Water-source heat pump" means a "heat pump" which consists of one assembly which utilizes an indoor conditioning coil with air moving means, compressor(s), and refrigerant-to-water heat exchanger(s) to provide both air heating and cooling, dehumidifying, circulating, and air cleaning. Water source heat pumps are not subject to the provisions of this rule.

## General

### § 305.4 Prohibited acts.

(a) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act of a maximum civil penalty of \$100 for each unit of any new covered product to which this part applies:

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is labeled in accordance with § 305.11 with a label, flap tag, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

(2) For any manufacturer, distributor, retailer, or private labeler knowingly to remove or render illegible any label required to be provided with such product by this part.

(3) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product, if there is not included (i) on the label, (ii) separately attached to the product, or (iii) shipped with the product, additional information relating to energy consumption or energy efficiency which conforms to the requirements in this part.

(b) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act of a maximum civil penalty of \$100 per day for any manufacturer or private labeler knowingly to:

(1) Refuse a request by the Commission or its designated representative for access to, or copying of, records required to be supplied under this part.

(2) Refuse to make reports or provide upon request by the Commission or its designated representative any information required to be supplied under this part.

(3) Refuse upon request by the Commission or its designated representative to permit a representative designated by the Commission to observe any testing required by this part while such testing is being conducted or to inspect the results of such testing. This section shall not limit the Commission from requiring additional testing under this part.

(4) Refuse, when requested by the Commission or its designated representative, to supply at the manufacturer's expense, no more than two of each model of each covered product to any laboratory designated by the Commission for the purpose of ascertaining whether the information in catalogs or set out on the label as required by this part is accurate. This action will be taken only after review of a manufacturer's testing records and an

opportunity to revalidate test data has been extended to the manufacturer.

(5) Distribute in commerce any catalog containing a listing for a covered product without the information required by § 305.14 of this Part. This subsection shall also apply to distributors and retailers.

(c) Pursuant to section 333(c) of the Act, it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer or private labeler in or affecting commerce to display or distribute at point of sale any printed material applicable to a covered product under this rule if such printed material does not contain the information required by § 305.13. This requirement does not apply to any broadcast advertisement or to any advertisement in a newspaper, magazine, or other periodical.

(d) Effective 180 days after a test procedure applicable to a consumer appliance product is prescribed by the Secretary of the Department of Energy, pursuant to section 323 of the Act (42 U.S.C. 6293), it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer, or private labeler to make any representation in or affecting commerce—

(1) In writing (including a representation on a label), or

(2) In any broadcast advertisement, respecting the energy consumption of the product or cost of energy consumed by the product, unless the product has been tested in accordance with the test procedure and the representation fairly discloses the results of the testing. This requirement is not limited to consumer appliance products covered by the labeling requirements of this part.

Any manufacturer, distributor, retailer, or private labeler may file a petition with the Commission not later than sixty (60) days before the expiration of the period involved for an extension of the 180-day period. If the Commission finds that the requirements would impose an undue hardship on the petitioner, the Commission may extend the 180 day period with respect to the petitioner up to an additional 180 days.

(e) This part shall not apply to:

(1) Any covered product if it is manufactured, imported, sold, or held for sale for export from the United States, so long as such product is not in fact distributed in commerce for use in the United States, and such covered product or the container thereof bears a



stamp or label stating that such covered product is intended for export.

(2) Any covered product, except central air conditioners and pulse combustion and condensing furnaces, if the manufacture of the product was completed prior to May 19, 1980. Any central air conditioner, pulse combustion furnace or condensing furnace if its manufacture was completed prior to June 7, 1988.

(3) Any catalog or point of sale printed matter pertaining to covered products other than central air conditioners and pulse combustion and condensing furnaces distributed prior to May 19, 1980, and any catalog or point of sale printed matter pertaining to central air conditioners and pulse combustion and condensing furnaces distributed prior to June 7, 1988 except that if representations respecting the energy consumption or energy efficiency of any covered product or other consumer appliance product or cost of energy consumed by such product are included, they are subject to the requirements of paragraph (d) of this section.

(f) As used in paragraphs (a) and (b) of this section, the term "knowingly" means:

- (1) The having of actual knowledge, or
- (2) The presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

#### Testing

#### § 305.5 Determinations of estimated annual energy cost and energy efficiency rating.

Procedures for determining the estimated annual energy costs and energy efficiency ratings of covered products are those found in 10 CFR Part 430, Subpart B, in the following sections:

- (a) Refrigerators and refrigerator-freezers—§ 430.22(a).
- (b) Freezers—§ 430.22(b).
- (c) Dishwashers—§ 430.22(c).
- (d) Water heaters—§ 430.22(e).
- (e) Room air conditioners—§ 430.22(f).
- (f) Clothes washers—§ 430.22(j).
- (g) Furnaces—§ 430.22(n).
- (h) Central air conditioners—§ 430.22(m).

#### § 305.6 Sampling.

Any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.23 of 10 CFR Part 430, Subpart B.

#### § 305.7 Determinations of capacity.

The capacity of covered products shall be determined as follows:

(a) Refrigerators and refrigerator-freezers—The capacity shall be the net refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix A1 to 10 CFR Part 430, Subpart B.

(b) Freezers—The capacity shall be the net freezer refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix B to 10 CFR Part 430, Subpart B.

(c) Dishwashers—The capacity shall be the place-setting capacity, calculated in conformance with AHAM Specification DW-1.

(d) Water heaters—The capacity shall be the first hour rating, determined according to 4.8 of Appendix E to 10 CFR Part 430, Subpart B.

(e) Room air conditioners—The capacity shall be the cooling capacity in Btu's per hour, determined according to 4.1 of Appendix F to 10 CFR Part 430, Subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

(f) Clothes washers—The size shall be the tub capacity, rounded to the nearest gallon, determined according to 3.1 of Appendix J to 10 CFR Part 430, Subpart B, in the terms standard or compact as defined in Appendix J of this rule.

(g) Furnaces—The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, determined according to 4.7 or 4.10 of Appendix N to 10 CFR Part 430, Subpart B.

(h) Central air conditioners, cooling—The capacity shall be the cooling capacity in Btu's per hour, determined according to 3.1 of Appendix M to 10 CFR Part 430, Subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 200 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 500 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

(i) Central air conditioners, heating—The capacity shall be the heating capacity in Btu's per hour, determined according to 3.2 of Appendix M to 10 CFR Part 430, Subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the

nearest 200 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 500 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

#### § 305.8 Submission of data.

(a) Each manufacturer of a covered product shall submit to the Commission not later than January 21, 1980 (for manufacturers of central air conditioners and pulse combustion and condensing furnaces, the submission date shall be two months after publication of a final, amended rule covering those products), a report listing the estimated annual energy cost (for refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, and clothes washers) or the energy efficiency rating (for room air conditioners, central air conditioners and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report must also list, for each basic model in current production: the model numbers for each basic model; the total energy consumption, determined in accordance with § 305.5, used to calculate the estimated annual energy cost or the energy efficiency rating; the number of tests performed; and its capacity, determined in accordance with § 305.7. For those models which use more than one energy source or more than one cycle, each separate amount of energy consumption, or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix J illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted by July 21, 1980 (for manufacturers of central air conditioners and pulse combustion and condensing furnaces, the submission date shall be eight months after publication of a final, amended rule covering central air conditioners).

(b) Thereafter, all data required by § 305.8(a) except serial numbers, shall be submitted to the Commission annually, on or before the following dates:

Products	Deadline for data submission	Effective mandatory labeling date
Refrigerators, refrigerator-freezers and freezers.	Aug. 1 .....	Dec. 1.
Dishwashers .....	June 1 .....	Oct. 1.
Water heaters .....	May 1 .....	Sept. 1.
Room air conditioners .....	May 1 .....	Sept. 1.
Clothes washers .....	Mar. 1 .....	July 1.
Furnaces .....	May 1 .....	Sept. 1.
Central air conditioners .....	July 1 .....	Nov. 1.



All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report. Serial number reports for new covered products are due sixty days after the annual effective mandatory labeling date for each product.

(c) All information required by paragraph (a) of this section must be submitted for new models prior to any distribution of such model. Models subject to design or retrofit alterations which change the data contained in any annual report shall be reported in the manner required for new models. Models which are discontinued shall be reported in the next annual report.

#### Representative Average Unit Energy Costs

##### § 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this Part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FOUR RESIDENTIAL ENERGY SOURCES (1987)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu <sup>1</sup>
Electricity	7.94¢/kWh <sup>2,3</sup>	\$0.0794/kWh	\$23.27
Natural Gas	56.2¢/therm <sup>4</sup> or \$5.80/MCF <sup>5,6</sup>	0.00000562/Btu	5.62
No. 2 heating oil	\$0.80/gallon <sup>7</sup>	0.00000576/Btu	5.76
Propane	70¢/gallon <sup>8</sup>	0.00000769/Btu	7.69

<sup>1</sup> Btu stands for British thermal units.

<sup>2</sup> kWh stands for kilowatt hour.

<sup>3</sup> 1 kWh = 3,412 Btu.

<sup>4</sup> 1 therm = 100,000 Btu.

<sup>5</sup> MCF stands for 1,000 cubic feet.

<sup>6</sup> For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,032 Btu.

<sup>7</sup> For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu.

<sup>8</sup> For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,000 Btu.

(b) Table 1, above, will be revised on the basis of future information provided by the Secretary of the Department of Energy, but not more often than annually. Manufacturers shall use the revised information when submission of the annual data is made in accordance with § 305.8.

##### § 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

(a) The range of estimated annual energy costs or range of energy efficiency ratings for each covered product shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the products. The Commission shall publish revised ranges annually in the Federal Register if appropriate, or a statement that specific prior ranges are still applicable for the new year. Ranges will be changed if the estimated annual energy cost or the energy efficiency rating of the products within the range changes in a way that would alter the upper or lower cost or efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of any revision shall conform to the revised range. Products which have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) When the estimated annual energy cost or energy efficiency rating of a

given model of a covered product falls outside the limits of the range found in the current appendix for that product, which could result from the introduction of a new or changed model, the manufacturer shall (1) omit placement of such product on the scale, and (2) add a sentence in the space just below the scale as follows:

The energy cost of this model was not available at the time the range was published; or The energy efficiency rating of this model was not available at the time the range was published.

##### Required Disclosures

##### § 305.11 Labeling for covered products.

(a) *Labels*—(1) *Layout*. All energy labels for each category of covered products use one size, similar colors and typefaces with consistent positioning of headline, copy and charts to maintain uniformity for immediate consumer recognition and readability. Trim size for all labels is 5½" x 7½". Copy is to be set x 27 picas or x 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely Figure 1, the prototype label appearing at the end of this part illustrating the basic layout. All positioning, spacing, type sizes and line widths should be similar to and consistent with the prototype label.

(2) *Type size and setting*. The Helvetica series typeface or equivalent shall be used exclusively on the label.

Specific type sizes and faces to be used are indicated on the prototype labels (Figures 1, 2, 3, 4, 5, and 6). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototype closely. Generally, text may be set flush left or right, line for line, or justified with one point leading except where otherwise indicated. Helvetica medium shall be used for all copy with the following exceptions only: (i) Numerals indicating "highest" and "lowest" energy cost or efficiency rating; (ii) chart headings and, if applicable, energy cost graph headings; (iii) the line "How much will this model cost you to run yearly?"

(3) *Colors*. The basic colors of all labels shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow with a window dropped out, as applicable, (showing as white) over the table(s) displaying yearly cost. For labels to be used on furnaces the white window shall be over the text of the three energy saving steps enumerated on the label. For labels to be used on central air conditioners, the white window shall be over the text of the paragraph immediately below the range(s). The window shall flush left and right, top and bottom with the table rules. All type including chart or table rules shall be print process black.

(4) *Paper stock*—(i) *Adhesive labels*. All adhesive labels should be applied so



they can easily be removed without use of tools or liquids, other than water. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25" x 38") or equivalent, exclusive of the release liner and adhesive. The adhesive shall have a minimum peel adhesion capacity of 24 ounces per inch width. The pressure-sensitive adhesive shall be applied in not less than two strips not less than 0.5 inches wide. The strips shall be within 0.25 inches of the opposite edges of the label. For a "flap tag" label, the pressure-sensitive adhesive shall be applied in one strip not less than 0.5 inches wide. The strip shall be within 0.25 inches of the top edge of the label.

(ii) *Hang tags.* The paper stock for hang tags shall have a basic weight of not less than 110 pounds per 500 sheets (25½" x 30½" index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(5) *Contents—(i) Labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters and room air conditioners.*

(A) Headlines and texts, as illustrated in Figures 1 and 2, are standard for all labels. At the option of the manufacturer or private labeler, the appropriate year may be inserted in that portion of the label which discloses the national average unit utility rate upon which the cost estimates are based.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) Model number(s) will be the designation given by the manufacturer or private labeler.

(D) Capacity or size is that determined in accordance with § 305.7.

(E) Estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters is that determined in accordance with § 305.5. Energy efficiency rating for room air conditioners is that determined in accordance with § 305.5.

(F) Ranges of comparability and of estimated annual energy costs or energy efficiency ratings, as applicable, are found in section 1 of the appropriate appendices accompanying this part.

(G) Placement of the labeled product on the scale shall be proportionate to the costs of the lowest and highest costs or efficiency ratings forming the scale.

(H) Yearly Cost text and tables are found in section 2 of Appendices A-I. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in section 2 of Appendices A-I. Revised appendices will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published appendices to determine the cost figures to be used for a particular covered product.

(I) The following statement shall appear at the bottom of the label:

"IMPORTANT  
REMOVAL OF THIS LABEL BEFORE  
CONSUMER PURCHASE IS A  
VIOLATION OF FEDERAL LAW (42  
U.S.C. 6302)."

(J) A statement that the energy costs or energy efficiency ratings, as applicable, are based on U.S. Government standard tests is required on all labels, as indicated in Figures 1 and 2.

(K) No marks or information other than that specified in this Part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(ii) *Labels for furnaces.*

(A) The headline, as illustrated in Figure 3, is standard for all labels.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) The following statements shall appear on the label, as indicated in Figure 3:

"You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house.
2. Assure energy efficient heating and cooling equipment selection and installation.

3. Operate and maintain your system to conserve energy.

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy. Your contractor has the energy fact sheets. Ask for them."

(D) The following statement shall appear at the bottom of the label:

"IMPORTANT  
REMOVAL OF THIS LABEL BEFORE  
CONSUMER PURCHASE IS A  
VIOLATION OF FEDERAL LAW (42  
U.S.C. 6302)."

(E) No marks or information other than specified in this part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(iii) *Labels for central air conditioners.*

(A) The headline, as illustrated in Figures 4, 5 and 6, is standard for all labels.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) The energy efficiency rating for the cooling function of central air conditioners is determined in accordance with § 305.5. For the heating function, the energy efficiency rating shall be calculated for heating Region IV for the standardized design heating requirement nearest the capacity measured in the High Temperature Test in accordance with § 305.5. In addition, the energy efficiency rating(s) for split system condenser-evaporator coil combinations shall be either:

(1) The energy efficiency rating of the condenser-evaporator coil combination that is the particular manufacturer's most commonly sold combination for that condenser model; or

(2) The energy efficiency rating of the actual condenser-evaporator coil combination comprising the system to which the label is to be attached.

(D)(1) Each cooling only central air conditioner shall contain a generic range of all cooling only central air conditioners.



(2) Each heat pump, except as noted in paragraph (a)(5)(iii)(D)(3) of this section, shall contain two generic ranges. The first range shall consist of the cooling side of all heat pumps. The second range shall consist of the heating side of all heat pumps.

(3) Each heating only heat pump shall contain a generic range of all heating only heat pumps.

(E) Placement of the labeled product on the scale shall be proportionate to the lowest and highest efficiency ratings forming the scale.

(F) The following statement shall appear on the label beneath the range(s) in bold print:

Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information regarding the efficiency and operating cost of this equipment. Ask for this information.

(G) A statement that the efficiency ratings are based on U.S. Government standard tests is required on all labels.

In addition, all labels disclosing energy efficiency ratings for the "most common" condenser-evaporator coil combinations must contain one of the following three statements:

(1) For labels disclosing the energy rating for cooling, the statement should read "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils."

(2) For labels disclosing the energy rating for both heating and cooling, the statement should read "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions."

(3) For labels disclosing the energy rating for heating, the statement should read "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions."

Central air conditioner labels disclosing the efficiency ratings for specific condenser/coil combinations do not have to contain any of the above three statements. They must contain only the general disclosure that the energy costs and efficiency ratings are based on U.S. Government tests (see sample labels).

(H) The following statement shall appear at the bottom of the label:

**IMPORTANT  
REMOVAL OF THIS LABEL BEFORE  
CONSUMER PURCHASE IS A**

#### **VIOLATION OF FEDERAL LAW (42 U.S.C. 6302)."**

(1) No marks or information other than specified in this part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6 point type or smaller.

(6) *Placement.* Manufacturers shall affix a label to the exterior surface on covered products in such a position that it can easily be read while standing in front of the product as it is displayed for sale. The label should be generally located on the upper-right-front corner of the product, except that for low-standing products or products with configurations that make application in that location impractical, some other prominent location may be used. The top of the label should not exceed 74 inches from the base of taller products. The label in the form of a "flap tag" shall be adhered to the top of the appliance and bent (folded at 90°) to hang over the front, if this can be done with assurance that it will be readily visible. Labels for split system central air conditioners shall be affixed to the condensing unit.

(7) *Use of hang tags.* Information prescribed above for labels may be displayed in the form of a hang tag, which may be used in place of an affixed label. If a hang tag is used, it shall be affixed in such a position that it will be prominent to a consumer examining the product.

(b) *Fact sheets.*—(1) *Distribution.* (i) Except as provided in Subsection c, manufacturers and private labelers must give distributors and retailers, including assemblers, fact sheets for the furnaces and central air conditioners they sell to them. Distributors must give the fact sheets to the retailers, including assemblers, they supply. Each fact sheet must contain the information listed in § 305.11(b)(3).

(ii) Retailers, including assemblers, who sell furnaces or central air conditioners to consumers must have fact sheets for the furnaces and central air conditioners they sell. They must make the fact sheets available to their customers. The fact sheets may be made available to customers in any manner, as long as customers are likely to notice them. For example, they can be available in a display, where customers can take copies of them. They can be kept in a binder at a counter or service desk, with a sign telling customers where the fact sheets are. Retailers, including assemblers, who negotiate or

make sales at a place other than their regular places of business must show the fact sheets to their customers and let them read the fact sheets before they agree to purchase the product.

(2) *Format.* All information required to be contained in fact sheets must be disclosed clearly and conspicuously.

(3) *Contents.* (i) "Energy Guide" headline is standard for all fact sheets, as for labels.

(ii) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(iii) Model number(s) will be the designation given by the manufacturer or private labeler.

(iv) Capacity or size is that determined in accordance with § 305.7.

(v) Energy efficiency rating is that determined in accordance with § 305.5.

(vi) Ranges of comparability and of energy efficiency ratings are found in section 1 of the appropriate appendices accompanying this part. This information is not required on fact sheets for central air conditioners.

(vii) Placement of the labeled product on the scale shall be proportionate to energy efficiency ratings of the lowest and highest efficiency ratings forming the scale.

(viii) Yearly cost information text and tables are found in section 2 of Appendices G, H and I accompanying this part. Cost figures are to be determined in accordance with § 305.5 using the unit energy costs found in Table 1 of § 305.9.

(ix) A statement that the energy costs and energy efficiency ratings are based on U.S. Government standard tests is required in all fact sheets.

(x) For central air conditioner fact sheets disclosing efficiency ratings for the "most common" condenser-evaporator coil combinations, the statement should be made in one of the following three ways:

(A) For fact sheets disclosing the energy rating for cooling, the statement should read "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils."

(B) For fact sheets disclosing the energy rating for both heating and cooling, the statement should read "This energy rating is based on U.S. Government standard tests of this



condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions."

(C) For fact sheets disclosing the energy rating for heating, the statement should read "This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions."

(xi) Central air conditioner fact sheets disclosing the efficiency ratings for specific condenser/coil combinations do not have to contain any of the above three statements. Instead, they must contain a general disclosure that the energy costs and efficiency ratings are based on U.S. Government tests.

(c) Manufacturers of central air conditioners may elect to disseminate information regarding the efficiencies and costs of operation of their products by means of a directory, or similar publication, provided it meets the following criteria.

(1) Distribution.

(i) It must be distributed to substantially all retailers and assemblers of central air conditioners.

(ii) It must be made available at cost to all other interested parties.

(2) Format. All required information must be disclosed clearly and conspicuously.

(3) Contents.

(i) Model number(s) will be the designation given by the manufacturer or private labeler.

(ii) Capacity or size is that determined in accordance with § 305.7.

(iii) Efficiency rating is that determined in accordance with § 305.5.

(iv) Cost disclosures must be substantially equivalent to those required on fact sheets.

(v) A statement that the energy costs and efficiency ratings are based on U.S. Government standard tests.

**§ 305.12 Additional information relating to energy consumption.**

Additional information relating to energy consumption which must be included on labels, separately attached to the product, or shipped with the product will be published as a separate section 3 of the appendices accompanying this part. No additional information will be required without public notice and an opportunity for written comments.

**§ 305.13 Promotional material displayed or distributed at point of sale.**

(a) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or

distribution at point of sale concerning a covered product shall clearly and conspicuously include in such printed material the following required disclosure:

Before purchasing this appliance, read important energy cost and efficiency information available from your retailer.

(b) This section shall not apply to:

(1) Written warranties.

(2) Use and care manuals, installation instructions, or other printed material containing primarily post-purchase information for the purchaser.

(3) Printed material containing only the identification of a covered product, pricing information and/or non-energy related representations concerning that product.

(4) Any printed material distributed prior to the effective date listed in § 305.18(f).

**§ 305.14 Catalogs.**

(a) Any manufacturer, distributor, retailer or private labeler who advertises a covered product in a catalog, from which it may be purchased by cash, charge account or credit terms, shall include in such catalog, on each page which lists a covered product, the following information required to be disclosed on the label:

(1) The capacity of the model.

(2) The estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters. The representative average unit costs for electricity, natural gas, oil and propane gas, published in § 305.9, which are current at the closing date for printing or the printing deadline date of the catalog, shall be used to compute the estimated annual energy cost.

(3) The energy efficiency rating for room air conditioners, central air conditioners and furnaces.

(4) The range of estimated annual energy costs or energy efficiency ratings, which shall be those which are current at the closing date for printing or the printing deadline of the catalog.

(5) The following disclosure, appearing clearly and conspicuously:

"IMPORTANT ENERGY INFORMATION IS AVAILABLE. TURN TO PAGE(S) [INSERT DESIGNATED PAGE NUMBER(S)]."

(b) On the page(s) designated, as referred to in § 305.14(a)(5), the manufacturer, distributor, retailer or private labeler must disclose either instructions on how cost grid information, described in §§ 305.11(a)(5)(i)(H) and 305.11(b)(3)(viii), may be obtained from the cataloger, or the cost grid information itself, so long as all

information thereon is clearly legible. Information contained in a catalog for a covered product shall be changed or modified in accordance with § 305.10.

**Additional Requirements**

**§ 305.15 Test data records.**

(a) Test data shall be kept on file by the manufacturer of a covered product for a period of two years after production of that model has been terminated.

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the estimated annual energy cost or energy efficiency rating for each basic model was derived.

**§ 305.16 Required testing by designated laboratory.**

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the estimated annual energy cost or energy efficiency rating disclosed on the label or fact sheet, or as required by § 305.14, is accurate. Such a procedure will only be followed after the Commission or its staff has examined the underlying test data provided by the manufacturer as required by § 305.15(b) and after the manufacturer has been afforded the opportunity to reverify test results from which the estimated annual energy cost or energy efficiency rating for each basic model was derived. A representative designated by the Commission shall be permitted to observe any reverification procedures required by this Part, and to inspect the results of such reverification. Charges for testing by designated laboratories will be paid by the Commission.

**Effect of This Part**

**§ 305.17 Effect on other law.**

This regulation supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to the Act, all State regulations that require the disclosure for any covered product of information with respect to energy consumption, other than the information required to be disclosed in accordance with this Part, are superseded.



**§ 305.18 When the rules take effect.**

(a) The report required by § 305.8(a), listing serial numbers or other numbers identifying the date of manufacture of models in current production, must be received by the Commission no later than July 21, 1980. For manufacturers of central air conditioners and pulse combustion and condensing furnaces, the date for submitting such starting serial numbers or other identifying numbers shall be August 8, 1988.

(b) The first required annual report of model numbers, test results and other data, referred to in § 305.8(a), must be received by the Commission no later than January 21, 1980. For manufacturers of central air conditioners and pulse combustion and condensing furnaces, the date for submitting such data shall be February 8, 1988.

(c) The requirement that the labels, flap tags, or hang tags specified in this rule must be attached to new covered products takes effect for all new covered products on which manufacture is completed on or after May 19, 1980, except as provided for in § 305.18(h).

(d) The requirement that energy fact sheets specified in this rule must be provided takes effect for furnaces on which manufacture is completed on or after May 19, 1980, except as provided for in § 305.18(h).

(e) The requirement that specified information about covered products be disclosed in catalogs takes effect for all catalogs printed and distributed on or after May 19, 1980. This requirement does not apply to catalogs if the catalog issue was distributed before May 19, 1980. The requirement that specified information about central air conditioners and pulse combustion and condensing furnaces be disclosed in catalogs takes effect for all catalogs printed and distributed on or after June 7, 1988. Required revisions to the specified information must be made in all new editions and new catalogs printed and distributed after the date of the revision.

(f) The requirement that all printed material displayed or distributed at the point of sale disclose information specified in § 305.13 takes effect on May 19, 1980, except as provided for in § 305.18(h).

(g) The preemption provision in § 305.17 takes effect on November 19, 1979.

(h) Unless otherwise provided in § 305.18, all requirements pertaining to central air conditioners and pulse combustion and condensing furnaces take effect for all new covered products on which manufacture is completed on or after June 7, 1988.

(i) All other requirements of this rule except those in § 305.4(d) take effect on May 19, 1980.

**§ 305.19 Stayed or Invalid Parts.**

If any section or portion of a section of this part is stayed or held invalid, the remainder of the part will not be affected.

**Appendix A1—Refrigerators****1. Range Information:**

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Electricity	
	Low	High
Less than 2.5		
2.5 to 4.4		
4.5 to 6.4		
6.5 to 8.4		
8.5 to 10.4		
10.5 to 12.4		
12.5 to 14.4		
14.5 to 16.4		
16.5 and over		

**2. Yearly Cost Information:**

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Cost per kilowatt hour (cents)	Yearly cost
2	
4	
6	
8	
10	
12	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information—(Reserved).

**Appendix A2—Refrigerator-Freezers****1. Range Information:**

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Electricity	
	Low	High
Less than 10.5		
10.5 to 12.4		
12.5 to 14.4		
14.5 to 16.4		
16.5 to 18.4		
18.5 to 20.4		
20.5 to 22.4		
22.5 to 24.4		
24.5 to 26.4		
26.5 to 28.4		
28.5 and over		

**2. Yearly Cost Information:**

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Cost per kilowatt hour (cents)	Yearly cost
2	
4	
6	
8	
10	
12	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information—(Reserved).

**Appendix B—Freezers****1. Range Information:**

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Electricity	
	Low	High
Less than 5.5		
5.5 to 7.4		
7.5 to 9.4		
9.5 to 11.4		
11.5 to 13.4		
13.5 to 15.4		
15.5 to 17.4		
17.5 to 19.4		
19.5 to 21.4		
21.5 to 23.4		
23.5 to 25.4		
25.5 to 27.4		
27.5 to 29.4		
29.5 and over		

**2. Yearly Cost Information:**

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Cost per kilowatt hour (cents)	Yearly cost
2	
4	
6	
8	
10	
12	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information—(Reserved).

**Appendix C—Dishwashers****1. Range Information:**

"Compact" includes countertop dishwasher models with a capacity of less than eight (8) place settings. "Standard" includes portable or built-in models with a capacity of eight (8) or more place settings.

Place settings shall conform to AHAM Specification DW-1<sup>1</sup> for chinaware, flatware and serving pieces. Load patterns shall conform to the operating normal for the model being tested.



Ranges of comparability	Ranges of estimated yearly energy costs			
	Electrically heated water		Natural gas heated water	
	Low	High	Low	High
Compact				
Standard				

## 2. Yearly Cost Information—(Type of Energy):

Estimates on the scale are based on a national average electric rate of 4.97¢ per (energy measure) and 8 loads of dishes per week.

Cost per kilowatt hour (cents)	Loads of dishes per week				
	2	4	6	8	10
2					
4					
6					
8					
10					
12					

## Appendix D1—Water Heater—Gas

### 1. Range Information:

First hour rating	Ranges of estimated yearly energy cost	
	Low	High
Less than 21		
21 to 24		
25 to 29		
30 to 34		
35 to 40		
41 to 47		
48 to 55		
56 to 64		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

### 2. Yearly Cost Information—Gas:

Estimates on the scale are based on a national average natural gas rate of 36.7¢ per therm.

Cost per therm (cents)	Yearly cost
10	
20	
30	
40	
50	
60	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

### 3. Additional Information (Reserved).

## Appendix D2—Water Heater—Electric

### 1. Range Information:

First hour rating	Ranges of estimated yearly energy cost	
	Electricity	
	Low	High
Less than 21		
21 to 24		
25 to 29		
30 to 34		
35 to 40		
41 to 47		
48 to 55		
56 to 64		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

### 2. Yearly Cost Information—Electricity:

Estimates on the scale are based on a national average electric of 4.97¢ per kilowatt hour.

Cost per kilowatt hour (cents)	Yearly cost
2	
4	
6	
8	
10	
12	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

### 3. Additional Information—(Reserved).

## Appendix D3—Water Heater—Oil

### 1. Range Information:

First hour rating	Ranges of estimated yearly energy cost	
	Low	High
Less than 65		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

### 2. Yearly Cost Information—Oil:

Estimates on the scale are based on a national average oil rate of 84.1¢ per gallon

Cost Per Gallon (cents)	Yearly cost
76	
79	
82	
85	
88	
91	
94	
97	
1.00	

Beside each cost in the table, place the cost estimate for the model being

labeled using the table costs in place of the national average rate.

### 3. Additional Information—(Reserved).

## Appendix E—Room Air Conditioners

### 1. Range Information:

Manufacturers rated cooling capacity in Btu's/hr.	Ranges of energy efficiency ratings	
	Electricity	
	Low	High
Less than 4,000		
4,800 to 5,299		
5,300 to 5,799		
5,800 to 6,299		
6,300 to 6,799		
6,800 to 7,299		
7,300 to 7,799		
7,800 to 8,299		
8,300 to 8,799		
8,800 to 9,299		
9,300 to 9,799		
9,800 to 10,299		
10,300 to 10,799		
10,800 to 11,299		
11,300 to 11,799		
11,800 to 12,299		
12,300 to 12,799		
12,800 to 13,299		
13,300 to 13,799		
13,800 to 14,299		
14,300 to 14,799		
14,800 to 15,299		
15,300 to 15,799		
15,800 to 16,499		
16,500 to 17,499		
17,500 to 18,499		
18,500 to 19,499		
19,500 to 20,499		
20,500 to 21,499		
21,500 to 22,499		
22,500 to 24,499		
24,500 to 26,499		
26,500 to 28,499		
28,500 to 32,499		
32,500 to 36,000		

### 2. Yearly Cost Information:

Cost per kilowatt hour (cents)	Yearly hours of use				
	250	750	1,000	2,000	3,000
2					
4					
6					
8					
10					
12					

Below the appropriate number of yearly hours of use and beside each cost in the table, place the cost estimate for the model being labeled using the table costs and using the yearly hours of use.

### 3. Additional Information—(Reserved).

## Appendix F—Clothes Washers

### 1. Range Information:

"Compact" includes all household clothes washers with a tub capacity of less than 1.6 cu. ft. or 13 gallons of water.

"Standard" includes all household clothes washers with a tub capacity of 1.6 cu. ft. or 13 gallons of water or more.



Ranges of comparability	Ranges of estimated yearly energy costs			
	Electrically heated water		Natural gas heated water	
	Low	High	Low	High
Compact				
Standard				

## 2. Yearly Cost Information—(Type of Energy):

Cost per kilowatt hour <sup>1</sup> (cents)	Loads of clothes per week					
	2	4	6	8	10	12
2						
4						
6						
8						
10						
12						

<sup>1</sup> For chart on natural gas, substitute the following cost figures: Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.

Below the appropriate number of clothes loads in the table and beside each cost, place the cost estimate for the model being labeled using the table costs and using the designated loads in the table.

## 3. Additional Information—(Reserved).

### Appendix G—Furnaces

#### Fact Sheet Requirement

##### 1. Range Information:

Comparability (Btu per hour)	Ranges of energy efficiency ratings	
	Low	High
5,000 to 10,000		
11,000 to 16,000		
17,000 to 25,000		
26,000 to 42,000		
43,000 to 59,000		
60,000 to 76,000		
77,000 to 93,000		
94,000 to 110,000		
111,000 to 127,000		
128,000 to 144,000		
145,000 to 161,000		
162,000 to 178,000		
179,000 to 195,000		
196,000 and over		

##### 2. Yearly Cost Information:

Cost per kilowatt hour <sup>1</sup> (cents)	Btu heat loss of home (see chart below)
2	
4	
6	
8	
10	
12	

<sup>1</sup> For charts on natural gas, oil and propane gas, substitute the following cost figures:

- a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.  
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, \$1.00.  
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu/hr.) to be used in the grid above:

Manufacturer's rated heat output of model to be labeled (Btu per hour)	Design heat loss of model to be labeled (1,000 Btu per hour)	Heat loss values to be used on the grid (1,000 Btu per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the grid on the opposite page, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used above with the national average cost.

## 3. Additional Information—(Reserved).

### Appendix H—Cooling Performance and Cost For Central-Air Conditioners

##### 1. Range Information:

Manufacturer's Rated Cooling Capacity (BTU/hr.)	Range of EER's (Generic)	
	Low	High
All capacities		

##### 2. Yearly Cost Information:

For each model, display three annual operating costs, rounded to the nearest \$10, corresponding to the three building heat gains from the chart below:

Manufacturers rated cooling capacity (BTU/hr.)	Building heat gain (in 1,000's BTU's/hr)		
up to 9,000	3	6	9
9,100 to 15,000	9	12	15
15,100 to 21,000	15	18	21
21,100 to 27,000	21	24	27
27,200 to 33,000	27	30	33
33,200 to 39,000	33	36	39
39,500 to 45,000	39	42	45
45,500 to 51,000	45	48	51
51,500 to 57,000	51	54	57
57,500 to 63,000	57	60	63

Manufacturers rated cooling capacity (BTU/hr.)	Building heat gain (in 1,000's BTU's/hr)		
63,500—over	63	66	69

The values of building heat gain are to be considered cooling capacities in the calculation of annual operating cost in accordance with 10 CFR § 430.22(m)(1)(i). Include the following note on every fact sheet page that lists annual operating costs.

**Note:** These figures are based on U.S. Government standard tests and are for national averages of 1000 cooling load hours and 5.64¢/KWH. Your cost will vary depending on your local energy rate and how you use the product. A method for estimating your cost of operation is given [direct user to location].

The methodology referred to in the note is provided below. This information shall be included at least once in all compendiums of fact sheets. If separate fact sheets are prepared for individual distribution to consumers, this methodology must be provided on or with the unbound fact sheets.

#### How to Estimate Your Cooling Cost

To estimate your actual cost of operation, find your cooling load hours from the map, your average annual operating cost from the National Average Annual Operating Cost Table, and determine your electrical rate in cents per kilowatt hour (KWH) from your electric bill.

Your estimated cost equals listed average annual operating costs\* times your cooling load hours\*\* (1,000) times Your electrical rate in cents Per KWH (5.64¢)

**Example:** If your cooling load hours=1500, and your electric rate is 8.46¢/KWH and your listed annual operating cost is \$100, then:

Your estimated cost=\$225.

$$= \$100 \times \frac{1,500}{1,000} \times 8.46 = \$225$$

Your estimated cost=\$100 X 1.5 X 1.5 = \$225

Your estimated cost=\$225

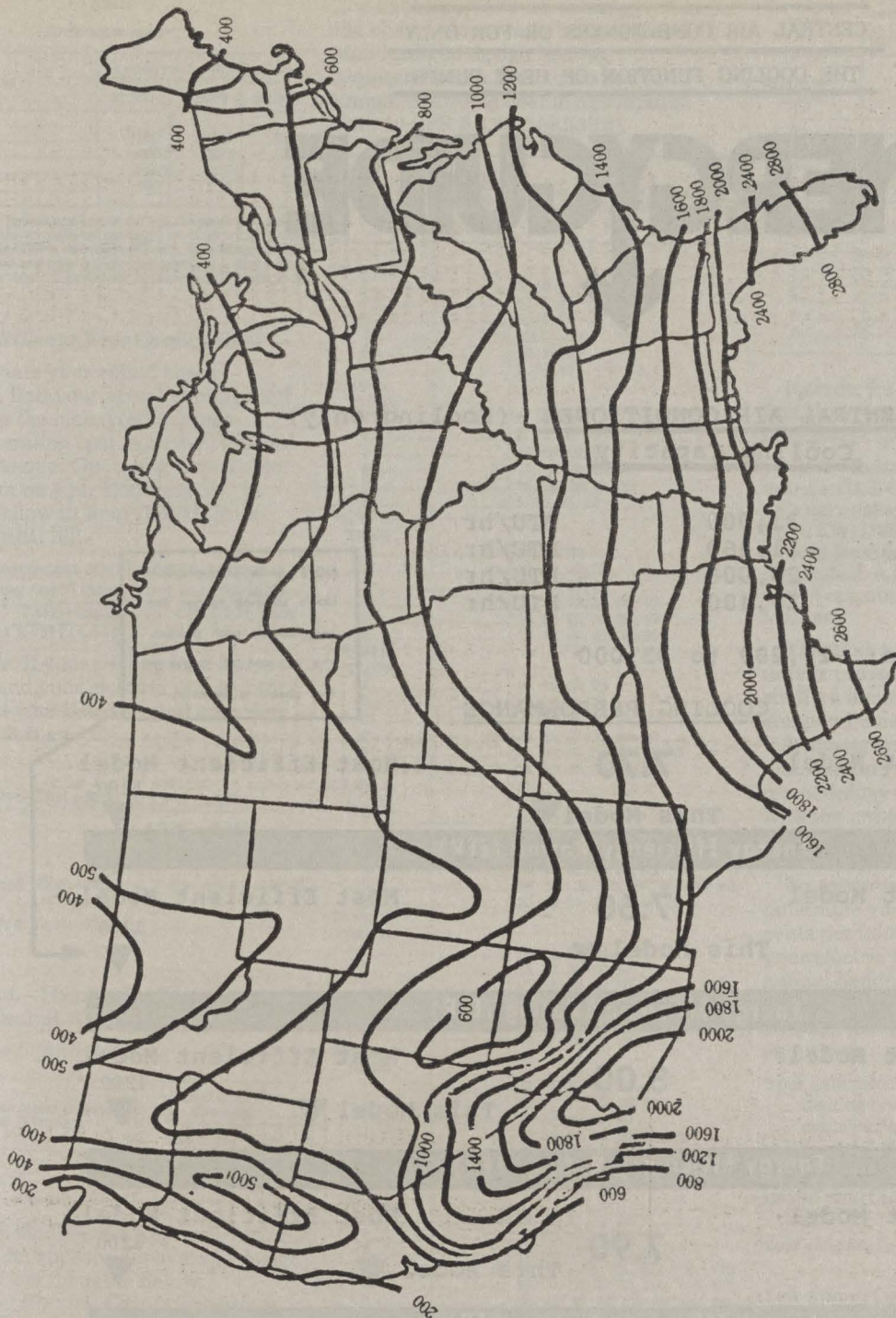
BILLING CODE 6750-01-M

\*From the National Average Annual Operating Cost Table

\*\*From the Map



## Cooling Load Hour Map



This map must be included at least once in all compendiums of fact sheets. If separate fact sheets are prepared for individual distribution to consumers, this map must be provided on or with the separate fact sheets.

	Cooling	Load	Hours
Alaska	0	6,000	"
Canal Zone	"	"	"
Guam	"	"	"
Hawaii	"	"	"
Puerto Rico	"	"	"
Samoa	"	"	"
Virgin Island	"	"	"



AN EXAMPLE OF A FACT SHEET FOR  
CENTRAL AIR CONDITIONERS OR FOR ONLY  
THE COOLING FUNCTION OF HEAT PUMPS

# ENERGYGUIDE

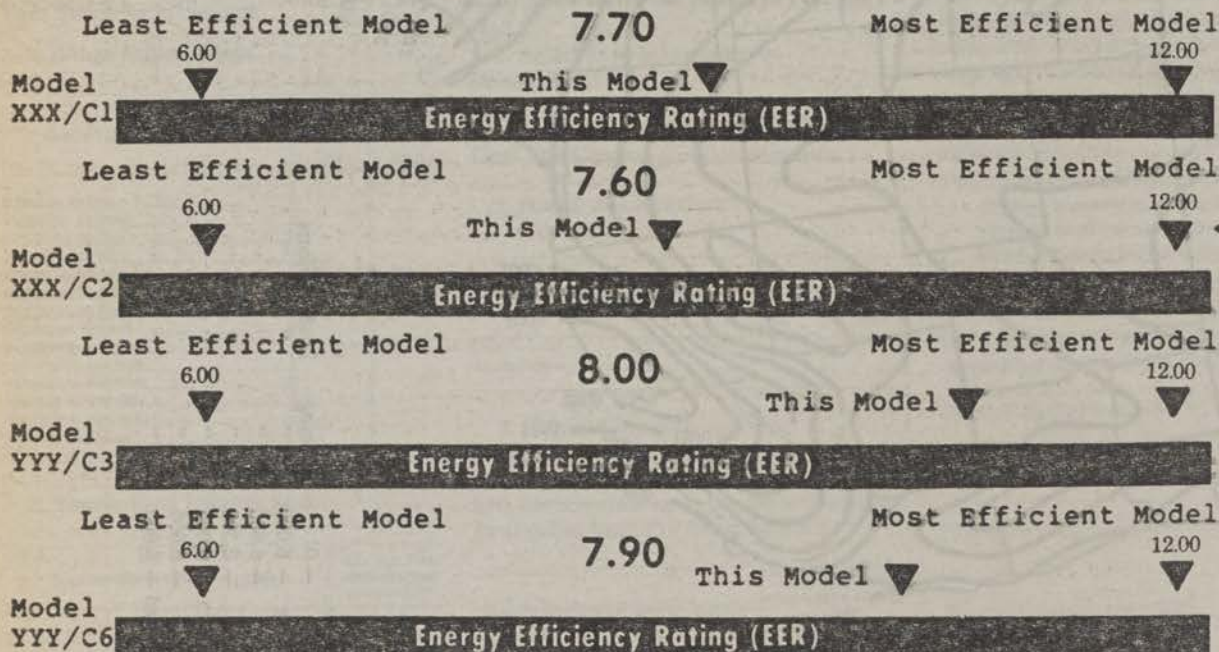
CENTRAL AIR CONDITIONER (Cooling only)  
Cooling Capacity

MODELS	XXX/C1	31,000	BTU/hr
	XXX/C2	31,400	BTU/hr
	YYY/C3	29,000	BTU/hr
	YYY/C6	29,400	BTU/hr

Comparability Range: 27,200 to 33,000

NOTE: Since product-specific labels showing ranges are required on each product, the inclusion of ranges on fact sheets is optional.

COOLING PERFORMANCE



This (or these) energy rating(s) is (or are) based on U.S. Government standard tests of this (or these) condenser model(s) combined with the most common coil(s). The ratings may vary slightly with different coils.



NATIONAL AVERAGE ANNUAL OPERATING COST  
TABLE

[Dollars per year]

Model	Building heat gain (BTU/hour)		
	27,000	30,000	33,000
XXX/C1	\$200	\$220	\$240
XXX/C2	200	220	240
XXX/C3	190	210	230
XXX/C6	190	210	230

Note: These figures are based on U.S. Government standard tests and are for national averages of 1000 cooling load hours and 5.64¢/KWH. Your cost will vary depending on your local energy rate and how you use the product. A method for estimating your cost of operation is provided on page 2 of this fact sheet.

**How To Estimate Your Cooling Cost**

To estimate your actual cost of operation, find your actual cooling load hours from the map, your average annual operating cost from the National Average Annual Operating Cost Table, and determine your electrical rate in cents per kilowatt hour (KWH) from your electrical bill.

Your Estimated cost equals Listed annual operating cost\* times Your cooling load hours\*\* (1,000) times Your electrical rate in cents KWH (5.64¢)

**Example:** If your cooling load hours are 1500, and your electric rate is 8.46¢/KWH, and your listed annual operating cost is \$100, then

$$\text{Your Estimated Cost} = \$100 \times \frac{1,500}{1,000} \times 8.46\text{¢} = \$126.90$$

$$\text{Your Estimated Cost} = \$100 \times 1.5 \times 1.5 = \$225$$

$$\text{Your Estimated Cost} = \$225$$

**Appendix I.—Heating Performance and Cost for Central-Air Conditioners****1. Range Information:**

Manufacturer's Rated Heating Capacity (BTU/hr.)	Range of EER's (Generic)	
	Low	High
All Capacities		

The EER shall be the Region IV value based on the appropriate average design heat loss from the table below.

**2. Yearly Heating Cost Information:**

For each model, display a regional annual operating cost, rounded to the nearest \$10, calculated according to 10

CFR § 430.22(m)(3)(ii) for each region. The heat loss of home values given in the chart below are to be considered standardized design heating requirements in the calculation of annual operating cost in accordance with 10 CFR § 430.22(m)(3)(ii).

Capacity and region	Average design heat loss (in 1,000's Btu's/hr.)	Heat loss of home values used on the grid (in 1,000's Btu's/hr.)
Up to 9,000:		
1		5, 10
2		5, 10, 15
3		5, 10, 15
4	10	10, 15, 20
5		10, 15, 20
6		5, 10, 15
9,100 to 15,000:		
1		5, 10, 15
2		5, 10, 15, 20
3		10, 15, 20, 25
4	20	10, 15, 20, 25, 30
5		10, 15, 20, 25, 30
6		5, 10, 15, 20
15,100 to 21,000:		
1		10, 15, 20
2		10, 15, 20, 25
3		15, 20, 25, 30
4	25	15, 20, 25, 30, 35, 40
5		15, 20, 25, 30, 35, 40
6		10, 15, 20, 25, 30, 35
21,100 to 27,000:		
1		10, 15, 20, 25
2		15, 20, 25, 30
3		15, 20, 25, 30, 35, 40
4	30	20, 25, 30, 35, 40, 50
5		20, 25, 30, 35, 40, 50, 60
6		15, 20, 25, 30, 35, 40
27,100 to 33,000:		
1		15, 20, 25, 30
2		20, 25, 30, 35, 40
3		20, 25, 30, 35, 40, 50
4	35	25, 30, 35, 40, 50, 60
5		25, 30, 35, 40, 50, 60, 70, 80
6		20, 25, 30, 35, 40, 50, 60
33,100 to 39,000:		
1		15, 20, 25, 30, 35
2		25, 30, 35, 40, 50
3		30, 35, 40, 50, 60
4	50	35, 40, 50, 60, 70, 80, 90
5		35, 40, 50, 60, 70, 80, 90
6		25, 30, 35, 40, 50
39,500 to 45,000:		
1		20, 25, 30, 35, 40
2		25, 30, 35, 40, 50, 60
3		30, 35, 40, 50, 60
4	60	40, 50, 60, 70, 80, 90, 100
5		40, 50, 60, 70, 80, 90, 100, 110
6		25, 30, 35, 40, 50, 60, 70, 80
45,500 to 51,000:		
1		20, 25, 30, 35, 40
2		30, 35, 40, 50, 60
3		35, 40, 50, 60, 70, 80
4	70	50, 60, 70, 80, 90, 100, 110
5		50, 60, 70, 80, 90, 100, 110, 130
6		30, 35, 40, 50, 60, 70, 80, 90, 100, 110, 130
51,500 to 57,000:		
1		25, 30, 35, 40, 50
2		35, 40, 50, 60, 70
3		40, 50, 60, 70, 80, 90
4	70	50, 60, 70, 80, 90, 100, 110
5		50, 60, 70, 80, 90, 100, 110, 130
6		35, 40, 50, 60, 70, 80, 90, 100

Capacity and region	Average design heat loss (in 1,000's Btu's/hr.)	Heat loss of home values used on the grid (in 1,000's Btu's/hr.)
57,500 to 63,000:		
1		25, 30, 35, 40, 50
2		35, 40, 50, 60, 70
3		50, 60, 70, 80, 90
4	80	60, 70, 80, 90, 100, 110
5		60, 70, 80, 90, 100, 110, 130
6		35, 40, 50, 60, 70, 80, 90, 100
63,500 and over:		
1		30, 35, 40, 50, 60
2		40, 50, 60, 70, 80
3		50, 60, 70, 80, 90, 100
4	90	70, 80, 90, 100, 110, 130
5		70, 80, 90, 100, 110, 130
6		40, 50, 60, 70, 80

Include the following note on every fact sheet page that lists annual operating costs.

**Note.**—These annual heating costs are based on U.S. Government standard tests and on a national average costs of electricity of 5.64¢/KWH. Your cost will vary depending on your local energy rate and how you use the product. A method for estimating your cost of operation is given [direct user to location].

The methodology referred to in the note is provided below. This information shall be included at least once in all compendiums of fact sheets. If separate fact sheets are prepared for individual distribution to consumers, this methodology must be provided on or with the unbound fact sheets.

**How To Estimate Your Heating Costs**

To estimate your heating cost, determine your cost of electricity in cents per kilowatt hour (KWH) from your electric bill, your listed average annual heating cost from the National Average Annual Heating Cost Table, and use that number in the following equation:

Your estimated cost equals Listed annual heating cost\* times Your electric cost in cents per ¢/KWH (5.64¢/KWH)

**Example:** If your electric rate is 8.46¢/KWH and the annual heating cost listed in the chart is \$200:

$$\text{Your estimated cost} = \$200 \times 8.46\text{¢}$$

$$= \$1,692$$

$$\text{Your estimated cost} = \$200 \times 1.5 = \$300$$

$$\text{Your estimated cost} = \$300$$

BILLING CODE 6750-01-M

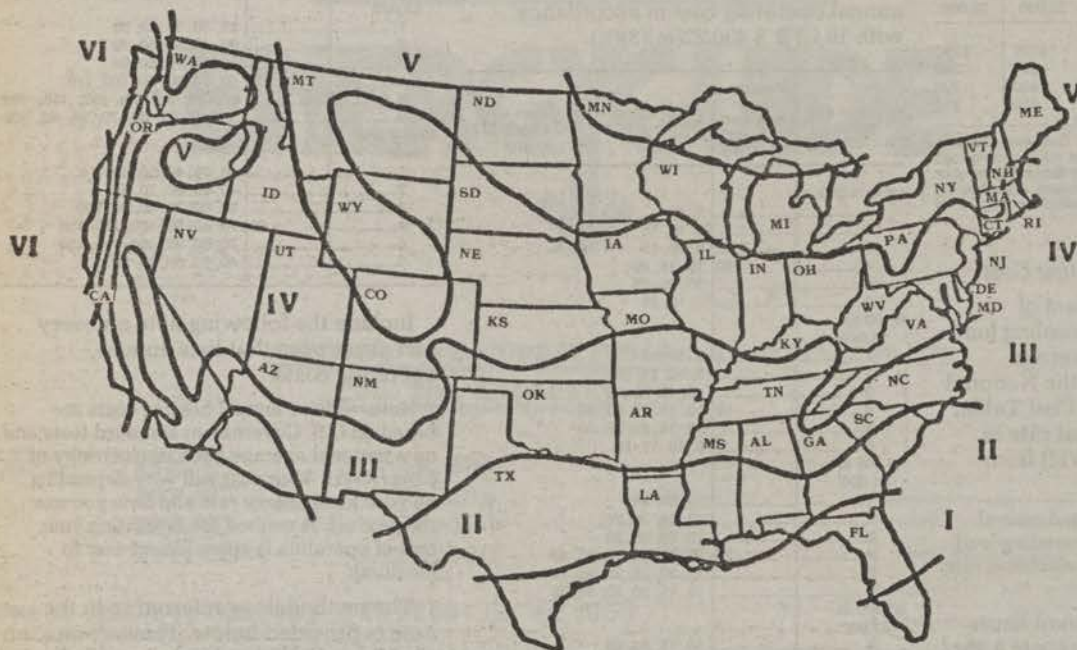
\*From the National Average Annual Heating Cost Table

\* From the national average table, above

\*\* From map



## Heating Region Map



This map must be included at least once in all compendiums of fact sheets. If separate fact sheets are prepared for individual distribution to consumers, this map must be provided on or with the separate fact sheets.



## AN EXAMPLE OF A FACT SHEET SHOWING ONLY

## THE HEATING FUNCTION FOR HEAT PUMPS

# ENERGYGUIDE



MODEL

XXX/C1

XXX/C2

HEATING

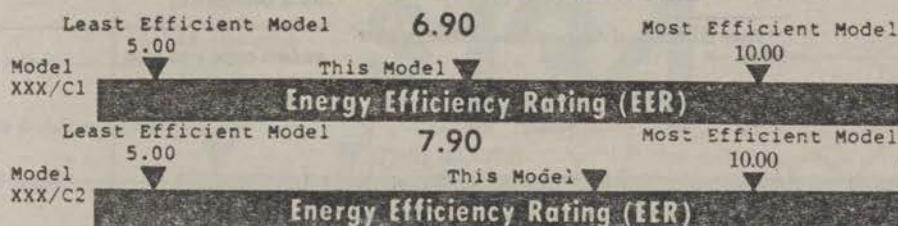
CAPACITY (BTU's/hr.)

33,000

35,000

NOTE: Since product-specific labels showing ranges are required on each product, the inclusion of ranges on fact sheets is optional.

## HEATING PERFORMANCE FOR REGION IV:



This (or these) energy rating(s) is (or are) based on U.S. Government standard tests of this (or these) condenser model(s) combined with the most common coil(s). The ratings will vary slightly with different coils and in different geographic regions.

## NATIONAL AVERAGE ANNUAL HEATING COST TABLE (\$ per year)

MODEL XXX/C1		Heat Loss of Home (in 1000's Btu's/hr.)									
		15	20	25	30	35	40	50	60	70	80
* Region	1	\$60	\$80	\$100	\$120						
"	2		\$140	\$170	\$200	\$240	\$280				
"	3			\$250	\$300	\$350	\$400	\$520			
"	4			\$350	\$410	\$480	\$550	\$710	\$910	\$1110	\$1330
"	5				\$560	\$660	\$750	\$970	\$1200	\$1460	\$1720
"	6			\$300	\$370	\$430	\$500	\$590			

MODEL XXX/C2		Heat Loss of Home (in 1000's Btu's/hr.)									
		15	20	25	30	35	40	50	60	70	80
* Region	1	\$50	\$70	\$90	\$110						
"	2		\$130	\$160	\$190	\$220	\$260				
"	3			\$240	\$280	\$330	\$400	\$500			
"	4			\$330	\$400	\$450	\$520	\$580	\$880	\$1020	\$1230
"	5				\$540	\$640	\$730	\$940	\$1100	\$1300	\$1620
"	6			\$300	\$350	\$400	\$470	\$560			

\*From Heating Region Map

BILLING CODE 6750-01-C

CH-1



**Note:** These annual heating costs are based on U.S. Government standard tests and on a national average cost of electricity of 5.64¢/KWH. Your cost will vary depending on your local energy rate and how you use the product. A method for estimating your cost of operation is given below.

#### How To Estimate Your Heating Cost

To estimate your heating cost, determine your cost of electricity in cents per kilowatt hour (KWH) from your electric bill, your listed average annual heating cost from the National Average Annual Heating Cost Table, and substitute that number in the following equation:

Your estimated cost equals Listed annual\* heating cost times Your electrical cost in cents (5.64¢/KWH)

Example: If your electric cost is 8.46¢/KWH and the annual heating cost listed in the table is \$200:

$$\text{Your estimated cost} = \$200 \times \frac{8.46¢}{5.64¢}$$

$$\text{Your estimated cost} = \$200 \times 1.5 = \$300$$

$$\text{Your estimated cost} = \$300$$

#### Appendix J—Suggested Data Reporting Format

1. Date of Report

2. Company Name

\*From the National Average Annual Heating Cost Table

3. City

4. State

5. Product

6. Energy Type (gas, oil, etc.)

7. Model Number

8. Estimated Annual Energy Cost or Energy Efficiency Rating

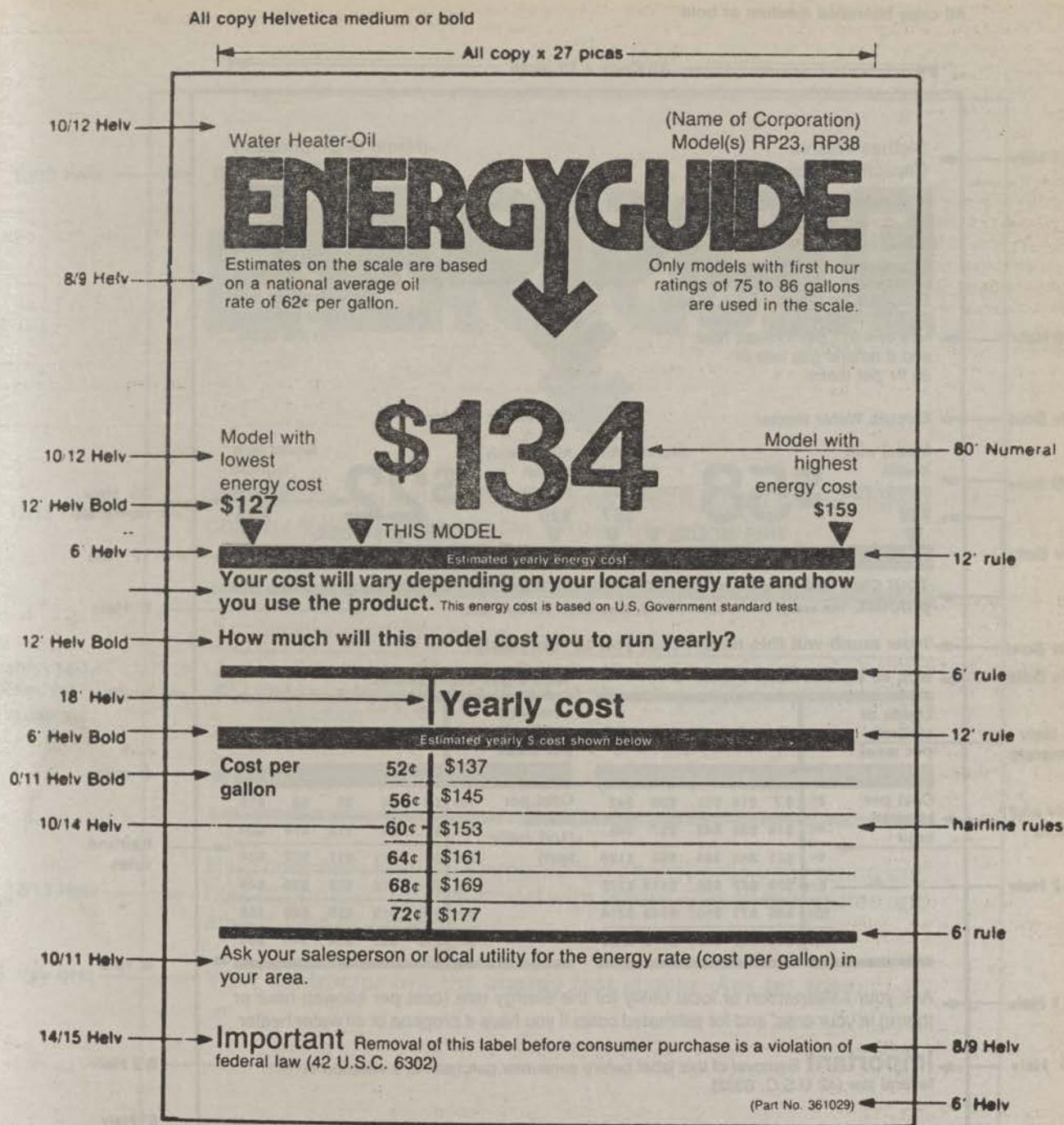
9. Capacity

10. Number of Tests Performed

11. Total Energy Consumption (based on all tests performed)

BILLING CODE 6750-01-M





SAMPLE LABEL

Figure 1



All copy Helvetica medium or bold

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10/12 Helv → Clothes Washer  
Capacity: Compact

(Name of Corporation)  
Model(s) SL301, SL309

# ENERGYGUIDE

8/9 Helv → Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only compact size clothes washers are used in the scale.

8' Helv Bold → Electric Water Heater

8/9 Helv → Model with lowest energy cost **\$58** Model with highest energy cost **\$67**

10' Helv Bold → **\$22** **THIS MODEL** **\$20** **THIS MODEL** **\$24**

36' Helv numerals → Estimated yearly energy cost

12' rule →

6' Helv → Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.<sup>1</sup>

12' Helv Bold → How much will this model cost you to run yearly?

8/9 Helv Bold → with an electric water heater

4' rule →

12' Helv numerals →

8' rule →

8/9 Helv and Helv Bold →

8/12 Helv →

4' rule →

10/11 Helv → Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

14' Helv → **Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

8/9 Helv →

6' Helv → (Part No. 6399601)

Loads of clothes per week	2	4	6	8	12	
Estimated yearly \$ cost shown below						
Cost per kilowatt hour	2¢	\$7	\$14	\$21	\$29	\$42
	4¢	\$14	\$29	\$43	\$57	\$85
	6¢	\$21	\$43	\$64	\$86	\$129
	8¢	\$29	\$57	\$86	\$114	\$172
	10¢	\$36	\$71	\$107	\$143	\$214
	12¢	\$43	\$85	\$128	\$172	\$256

Loads of clothes per week	2	4	6	8	12	
Estimated yearly \$ cost shown below						
Cost per therm (100 cubic feet)	10¢	\$2	\$4	\$6	\$8	\$12
	20¢	\$4	\$8	\$12	\$16	\$24
	30¢	\$6	\$11	\$17	\$22	\$34
	40¢	\$8	\$15	\$23	\$30	\$46
	50¢	\$10	\$19	\$29	\$48	\$58
	60¢	\$12	\$22	\$34	\$44	\$68

SAMPLE LABEL

Figure 2



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10/12 Helv → (For Furnaces)

# ENERGYGUIDE

12/13 Helv → You can save substantially on home heating and cooling energy cost by following the simple steps outlined below:

1. Weatherproof your house
2. Assure energy efficient heating and cooling equipment selection and installation
3. Operate and maintain your system to conserve energy.

12/13 Helv → Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

12 Helv Bold → Your contractor has the energy fact sheets. Ask for them.

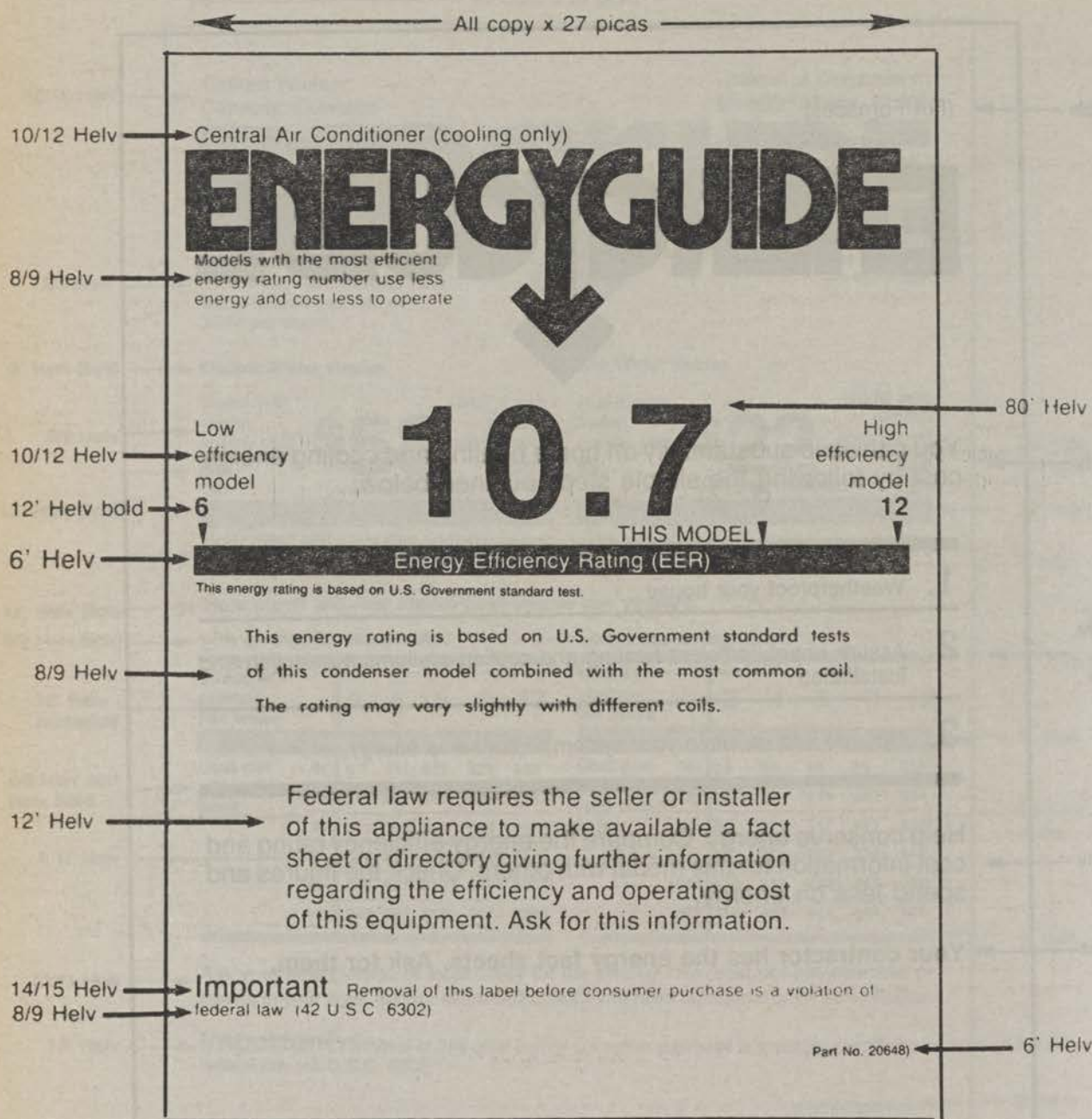
14/15 Helv → **Important** Removal of this label before consumer purchase is a violation of federal law  
8/9 Helv → (42 U.S.C. 6302)

SAMPLE LABEL

Figure 3



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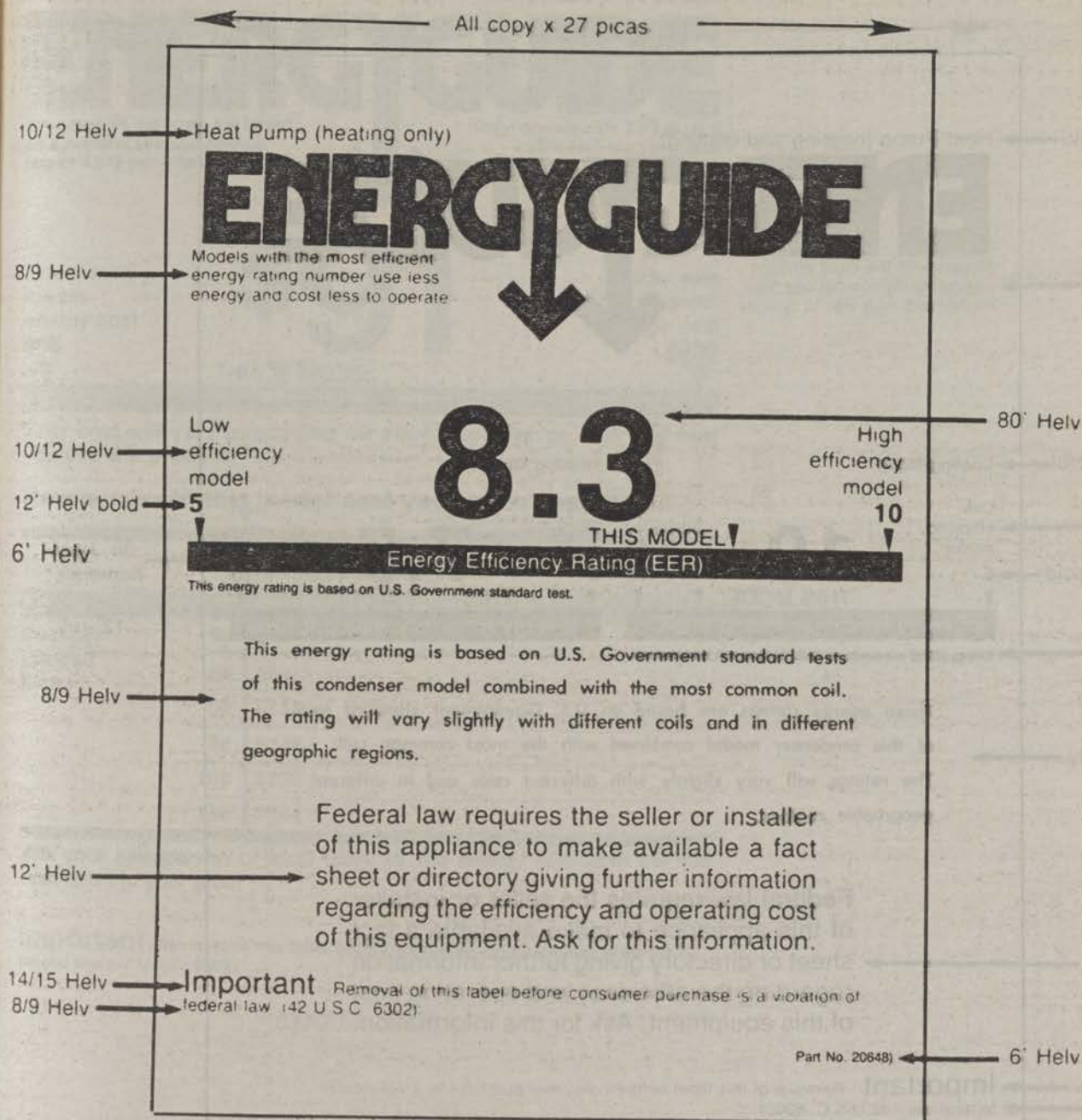


SAMPLE LABEL

Figure 4



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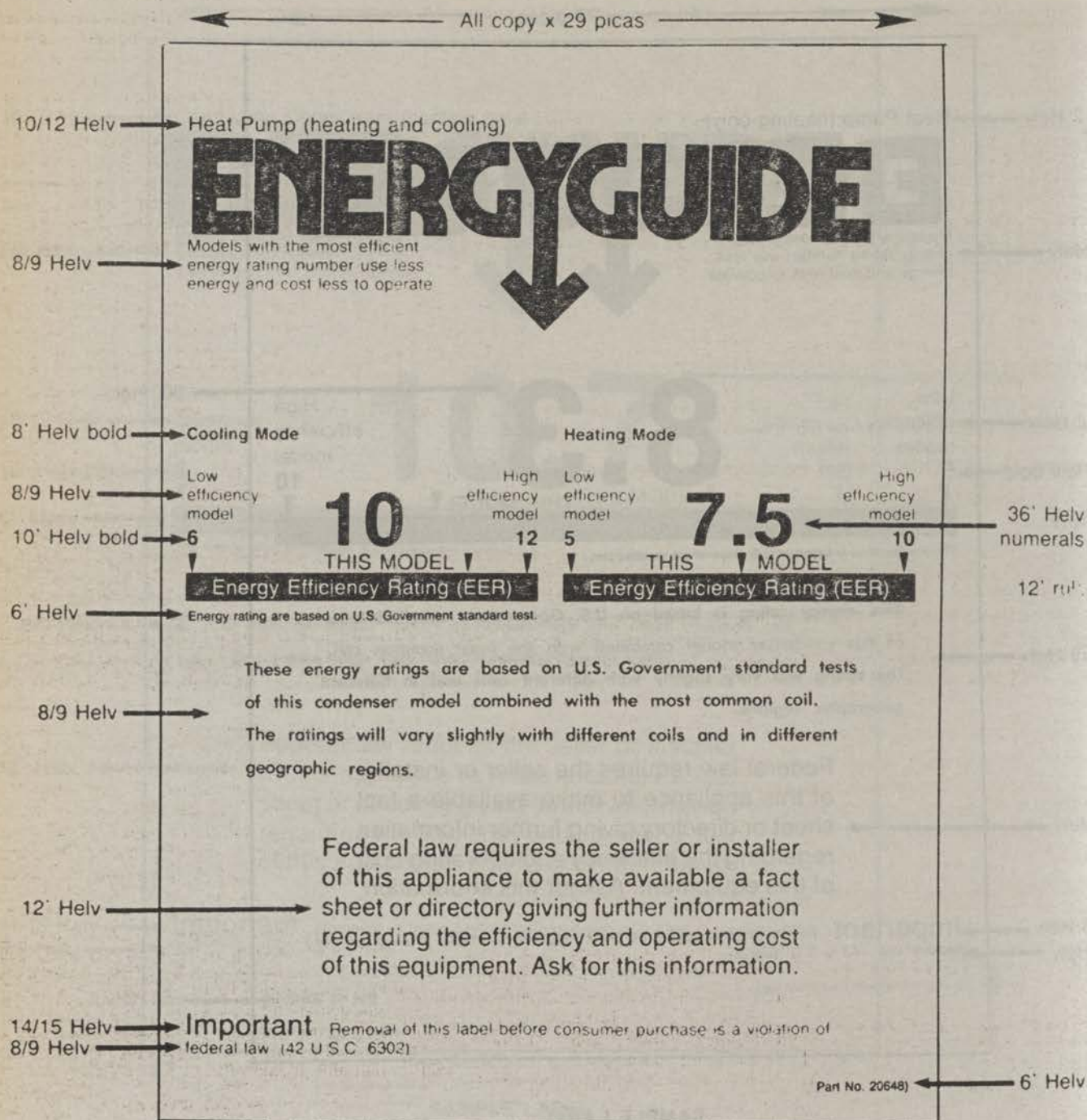


SAMPLE LABEL

Figure 5



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SAMPLE LABEL

Figure 6



Refrigerator-Freezer  
Capacity: 23 Cubic Feet

(Name of Corporation)  
Model(s) AH503, AH504, AH507  
Type of Defrost: Full Automatic

# ENERGYGUIDE

Estimates on the scale are based  
on a national average electric  
rate of 4.97¢ per kilowatt hour

Only models with 22.5 to 24.4  
cubic feet are compared  
in the scale.

Model with  
lowest  
energy cost  
**\$68**

**\$91**

Model with  
highest  
energy cost  
**\$132**

THIS ▼ MODEL

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how  
you use the product. This energy cost is based on U.S. Government standard tests

How much will this model cost you to run yearly?

## Yearly cost

Estimated yearly \$ cost shown below

Cost per kilowatt hour		
2¢	\$44	
4¢	\$88	
6¢	\$132	
8¢	\$176	
10¢	\$220	
12¢	\$264	

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area.

**Important** Removal of this label before consumer purchase is a violation of  
federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 371026)



Freezer

Capacity: 26 Cubic Feet

(Name of Corporation)

Model(s) SH405, SH413

Type of Defrost: Manual

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour

Only models with 25.5 to 27.4 cubic feet are compared in the scale.

Model with lowest energy cost  
**\$95**

**\$120**

Model with highest energy cost  
**\$140**

THIS ▼ MODEL

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

Yearly cost	
Estimated yearly \$ cost shown below	
Cost per kilowatt hour	2¢ \$64
	4¢ \$128
	6¢ \$190
	8¢ \$252
	10¢ \$317
	12¢ \$380

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 14332)



Dishwasher  
Capacity: Standard

(Name of Corporation)  
Model(s) MR328, XL12, NA83

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only standard size dishwashers are used in the scale

## Electric Water Heater

Model with lowest energy cost  
\$50

**\$60**

▼ THIS MODEL

Estimated yearly energy cost

Model with highest energy cost  
\$84

## Gas Water Heater

Model with lowest energy cost  
\$19

**\$27**

▼ THIS MODEL

Estimated yearly energy cost

Model with highest energy cost  
\$42

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests

## How much will this model cost you to run yearly?

with an electric water heater

with a gas water heater

Loads of dishes per week		2	4	6	8	12
Estimated yearly \$ cost shown below						
Cost per kilowatt hour	2¢	\$8	\$15	\$23	\$31	\$47
	4¢	\$15	\$31	\$46	\$62	\$92
	6¢	\$23	\$46	\$69	\$92	\$139
	8¢	\$31	\$62	\$92	\$123	\$189
	10¢	\$39	\$77	\$116	\$154	\$231
	12¢	\$47	\$92	\$139	\$185	\$278

Loads of dishes per week	2      4      6      8      12					
	Estimated yearly \$ cost shown below					
Cost per therm (100 cubic feet)	10¢	\$2	\$5	\$7	\$9	\$14
	20¢	\$5	\$11	\$16	\$22	\$33
	30¢	\$7	\$14	\$21	\$27	\$41
	40¢	\$9	\$19	\$28	\$36	\$55
	50¢	\$12	\$23	\$35	\$45	\$68
	60¢	\$19	\$28	\$42	\$54	\$82

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 73906)



Clothes Washer  
Capacity: Compact

(Name of Corporation)  
Model(s) SL301, SL309

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only compact size clothes washers are used in the scale.

## Electric Water Heater

Model with lowest energy cost  
**\$22**

**\$58**

Model with highest energy cost  
**\$67**

THIS MODEL

Estimated yearly energy cost

## Gas Water Heater

Model with lowest energy cost  
**\$20**

**\$22**

Model with highest energy cost  
**\$24**

THIS MODEL

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

## How much will this model cost you to run yearly?

### with an electric water heater

Loads of clothes per week	2   4   6   8   12					
	Estimated yearly \$ cost shown below					
Cost per kilowatt hour	2¢	\$7	\$14	\$21	\$29	\$42
	4¢	\$14	\$29	\$43	\$57	\$85
	6¢	\$21	\$43	\$64	\$86	\$129
	8¢	\$29	\$57	\$86	\$114	\$172
	10¢	\$36	\$71	\$107	\$143	\$214
	12¢	\$43	\$85	\$128	\$172	\$256

### with a gas water heater

Loads of clothes per week	2      4      6      8      12					
	Estimated yearly \$ cost shown below					
Cost per therm (100 cubic feet)	10¢	\$2	\$4	\$6	\$8	\$12
	20¢	\$4	\$8	\$12	\$16	\$24
	30¢	\$6	\$11	\$17	\$22	\$34
	40¢	\$8	\$15	\$23	\$30	\$46
	50¢	\$10	\$19	\$29	\$48	\$58
	60¢	\$12	\$22	\$34	\$44	\$68

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 8399601)



Water Heater-Oil

(Name of Corporation)

Model(s) RP23, RP38

# ENERGYGUIDE

Estimates on the scale are based  
on a national average oil  
rate of 62¢ per gallon.

Only models with first hour  
ratings of 75 to 86 gallons  
are used in the scale.

Model with  
lowest  
energy cost  
**\$127**

# \$134

Model with  
highest  
energy cost  
**\$159**

▼ THIS MODEL ▼

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how  
you use the product. This energy cost is based on U.S. Government standard tests

How much will this model cost you to run yearly?

		Yearly cost
		Estimated yearly \$ cost shown below
Cost per gallon	52¢	\$137
	56¢	\$145
	60¢	\$153
	64¢	\$161
	68¢	\$169
	72¢	\$177

Ask your salesperson or local utility for the energy rate (cost per gallon)  
in your area.

**Important** Removal of this label before consumer purchase is a violation of  
federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 361029)



Room Air Conditioner  
Capacity: 8,000 BTU/hr

(Name of Corporation)  
Model(s) SA 714, SA 718

# ENERGYGUIDE

Models with the most efficient  
energy rating number use less  
energy and cost less to operate.

Models with 7800 to  
8299 BTU's cool  
about the same space.



## 7.3

Least efficient  
model  
**3.4**

Most efficient  
model  
**8.5**

THIS MODEL ▼

Energy Efficiency Rating (EER)

This energy rating is based on U.S. Government standard tests

### How much will this model cost you to run yearly?

Yearly hours of use		250	750	1000	2000	3000
		Estimated yearly \$ cost shown below				
Cost per kilowatt hour	2¢	\$7	\$20	\$28	\$56	\$84
	4¢	\$14	\$41	\$56	\$112	\$168
	6¢	\$20	\$61	\$80	\$160	\$240
	8¢	\$27	\$82	\$108	\$216	\$324
	10¢	\$34	\$102	\$136	\$272	\$408
	12¢	\$41	\$122	\$163	\$326	\$489

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area. Your cost will vary depending on your local energy rate and how you use the product.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 20648)



(For Furnaces)

# ENERGYGUIDE



You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house
2. Assure energy efficient heating and cooling equipment selection and installation
3. Operate and maintain your system to conserve energy.

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

**Your contractor has the energy fact sheets. Ask for them.**

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

## SAMPLE LABEL

By direction of the Commission,  
Emily H. Rock,  
Secretary.

[FR Doc. 87-24545 Filed 12-9-87; 8:45 am]

BILLING CODE 6750-01-C



# Energy Audit

The first step in any energy audit is to determine the scope of the audit. This involves identifying the areas of the building that will be audited and the goals of the audit.

1. Determine the scope of the audit.
2. Gather data on energy use.
3. Analyze the data.

The next step is to gather data on energy use. This can be done by reviewing utility bills, installing energy meters, and conducting interviews with building occupants.

Once the data has been gathered, the next step is to analyze it. This involves identifying areas of energy waste and determining the causes of the waste.

After the data has been analyzed, the next step is to develop recommendations for energy conservation. These recommendations should be based on the findings of the audit and should be realistic and achievable.

Finally, the last step is to implement the recommendations. This involves working with building occupants to ensure that the recommendations are followed and that energy conservation measures are put into place.

Energy audits are an important tool for reducing energy consumption and saving money. By following the steps outlined above, building owners can ensure that their audits are effective and that they are able to achieve their energy conservation goals.



# Get It Right

Thursday  
December 10, 1987

## Part III

## Committee for Purchase From The Blind and Other Severely Handicapped

Procurement List 1988; Notice of  
Establishment



# **COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED**

## **Procurement List 1988; Establishment**

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the Federal Register a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prisons Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by sections 102 and 105 of Title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to Section 2 of the Act that Procurement List 1988 is established as set forth below. Procurement List 1988 supersedes Procurement List 1987, November 3, 1986 (51 FR 39945) and subsequent changes thereto through November 30, 1987.

Any proposed additions or deletions to Procurement List 1987 pending on this date shall be considered as pending and applicable to Procurement List 1988.

By the Committee.  
C.W. Fletcher,  
Executive Director.

## **Assignment Codes**

Central Nonprofit Agency and Code  
National Industries for the Blind, IB  
National Industries for the Severely Handicapped, SH

## **CLASS 1005**

Cover, Spare Barrel (SH)  
1005-00-659-1031  
Firing Attachment, Blank (SH)  
1005-00-118-8192  
Sling, Adjustable, Small Arms (IB)  
1005-01-216-4510  
Sling, Padded, Adjustable (IB)  
1005-00-312-7177  
Swab, Small Arms Cleaning (IB)  
1005-00-912-4248,  
1005-00-288-5685

## **CLASS 1015**

Staff Section (SH)  
1015-00-699-0633

## **CLASS 1025**

Staff Section (SH)  
1025-00-563-7232  
1025-01-044-2587

## **CLASS 1095**

Scabbard, Bayonet-Knife (IB)  
1095-00-508-0339

## **CLASS 1220**

Case, Carrying (IB)  
1220-00-765-5870  
1220-00-937-8286

## **CLASS 1330**

Tape Stiffener Assembly (SH)  
1330-01-051-1533 13 million each  
annually

## **CLASS 1350**

Arming Wire (SH)  
1350-00-889-8165

## **CLASS 1660**

Harness Assembly (SH)  
1660-00-066-2078

## **CLASS 1670**

Harness, Parachutist (SH)  
1670-01-227-7992  
Message Dropper (SH)  
1670-00-797-4495

## **CLASS 1680**

Belt, Aircraft Safety (SH)  
1680-00-725-5927  
Wire Bundle Assemblies (SH)  
1680-00-881-4215  
1680-00-884-0409  
1680-00-894-3991  
1680-00-125-9646  
1680-00-919-3706  
1680-00-883-4487  
1680-00-222-3876  
1680-00-826-7752  
1680-00-974-5275

1680-00-974-5276  
1680-00-998-8594

## **CLASS 1730**

Chock Wheel, Codit Reflecting (IB)  
1730-00-294-3694  
1730-00-063-4095  
1730-00-294-3696  
1730-00-294-3695  
1730-00-945-8450  
1730-00-163-8317 (4 x 6 x 24")  
1730-00-NIB-001A 2 x 4 x 8" STD  
1730-00-NIB-001B 6 x 8 x 18" STD  
1730-00-NIB-001C 6 x 8 x 76" STD  
1730-00-NIB-001D (8 x 12") U-SHAPED  
1730-00-NIB-001E (10 x 20") U-SHAPED  
Chock Wheel, Painted (IB)  
1730-00-294-3694  
1730-00-063-4095  
1730-00-294-3696  
1730-00-294-3695  
1730-00-945-8450  
1730-00-163-8317 (4 x 6 x 24")  
1730-00-NIB-001A (2 x 4 x 8") STD  
1730-00-NIB-001B (6 x 8 x 18") STD  
1730-00-NIB-001C (6 x 8 x 76") STD  
1730-00-NIB-001D (8 x 12") U-SHAPED  
1730-00-NIB-001E (10 x 20) U-SHAPED  
Chock Wheel, Reflective Tape (IB)  
1730-00-294-3694  
1730-00-063-4095  
1730-00-294-3696  
1730-00-294-3695  
1730-00-945-8450  
1730-00-163-8317 (4 x 6 x 24")  
1730-00-NIB-001A (2 x 4 x 8") STD  
1730-00-NIB-001B (6 x 8 x 18") STD  
1730-00-NIB-001C (6 x 8 x 76") STD  
1730-00-NIB-001D (8 x 12") U-SHAPED  
1730-00-NIB-001E (10 x 20") U-SHAPED  
Chock Wheel, Unpainted (IB)  
1730-00-294-3694  
1730-00-063-4095  
1730-00-294-3696  
1730-00-294-3695  
1730-00-945-8450  
1730-00-163-8317 (4 x 6 x 24")  
1730-00-NIB-001A (2 x 4 x 8" std)  
1730-00-NIB-001B (6 x 8 x 18" std)  
1730-00-NIB-001C (6 x 8 x 76" STD)  
1730-00-NIB-001D (8 x 12" U-SHAPED)  
1730-00-NIB-001E (10 x 20") U-SHAPED

## **CLASS 2090**

Weight, Canvas Bag (IB)  
2090-00-845-9150

## **CLASS 2510**

Side Rack, Vehicle (SH)  
2510-00-535-6797

## **CLASS 2540**

Belt, Automobile, Safety (IB)  
2540-00-894-1273  
2540-00-894-1275  
2540-00-894-1274  
2540-00-894-1276  
Cushion Assembly, Back Rest (SH)  
2540-00-737-3308  
Cushion Assembly, Seat Back (SH)  
2540-01-065-6288  
Cushion Seat, Vehicular (SH)  
2540-00-808-3811  
2540-00-904-5680  
2540-01-074-6363



**Cushion, Seat Back, Vehicular (SH)**

2540-00-880-3925

2540-01-065-6289

**Kit, Deep Water Fording (SH)**

2540-00-473-0111

2540-00-780-0844

2540-00-181-8109

**Mirror and Bracket Assembly (SH)**

2540-00-575-8392

**CLASS 2920****Cable Assembly, Electrical (IB)**

2920-01-027-0125 (50% of Gov't Rqmt)

**CLASS 3510****Net, Laundry (IB)**

3510-00-273-9738

3510-00-273-9739

**CLASS 3920****Truck, Hand (IB)**

3920-00-847-1305

**CLASS 3990****Pallet, Corrugated Fiberboard, Material**

Handling (SH)

3990-00-L77-0044'

Navy Ships Parts Control Center,

Mechanicsburg, PA only

**Pallet, Material Handling (SH)**

3990-01-M00-0075 Pine Bluff Arsenal, AR only

3990-00-892-4394 Mechanicsburg, PA;

Memphis, TN; Richmond, VA and

Columbus, OH Depots only

**Pallet, Wood (SH)**

3990-00-X77-1721 New Cumberland Army Depot only

3990-00-NSH-0001 48 x 40 x 36" Social Security Administration, Baltimore, MD only

3990-00-NSH-0005 24 x 20" New Cumberland Army Depot only

3990-00-366-6806

**CLASS 4130****Filter, Air Conditioning (IB)**

4130-00-870-8796 Rgns 4,5

4130-00-541-3220 Rgns 4,5

4130-00-274-7800 Rgns 2,3,W,4,5,6,7,8,9,10

4130-00-756-1840 Rgns 2,3,W,4,5,6,7,8,9,10

4130-00-720-4143 Rgns 4,5

4130-00-249-0966 Rgns 2,3,W,4,5,6,7,8,9,10

4130-00-203-3318 Rgns 4,5

4130-00-203-3321 Rgns 2,3,W,4,5,6,7,8,9,10

4130-00-542-4482 Rgns 4,5

4130-00-959-4734 Rgns 4,5

4130-00-756-0978 Rgns 4,5

4130-00-951-1208 Rgns 4,5

**CLASS 4240****Bag, Waterproofing (IB)**

4240-00-377-9401

**Harness, Head (SH)**

4240-00-961-1064

4240-01-M14-0174

**Modification Kit, Head Harness (SH)**

4240-01-220-3201

**Winterization Kit (SH)**

4240-00-065-0319 (40% of Gov't Rgmt)

**CLASS 4610****Bag, Drinking Water Storage (SH)**

4610-00-268-9890

**CLASS 4730****Fitting Kit (SH)**

4730-00-470-6625

**CLASS 4820****Valve, Ball (SH)**

4820-00-052-4651

4820-00-052-4653

**CLASS 4910****Crepper, Mechanic's (SH)**

4910-00-251-6981

4910-00-106-7834

4910-00-NSH-0001

**CLASS 5120****Screwdriver Set, Cross Tip (SH)**

5120-00-357-7175

5120-00-580-0334

5120-00-060-2004

5120-00-820-2995

5120-00-224-7370

5120-00-227-7293

5120-00-542-3438

5120-00-224-7375

5120-00-237-8174

5120-00-580-2361

**Screwdriver, Flat-Tip (SH)**

5120-00-287-2504

5120-00-278-1267

5120-00-288-7803

5120-00-278-1270

5120-00-227-7356

5120-00-596-8502

5120-00-062-0813

5120-00-293-3311

5120-00-293-0315

5120-00-227-7377

5120-00-236-2140

**Vise, Multiposition (SH)**

5120-00-991-1907

**CLASS 5140****Bag, Tool (IB)**

5140-00-772-4142

**Bag, Tool (Satchel) (SH)**

5140-00-473-6256

**Belt, Tool, Repairman's (SH)**

5140-00-529-2517

5140-00-529-2694

5140-00-529-2691

**Tool Box, Portable (SH)**

5140-00-289-8911

5140-00-289-8910

**CLASS 5340****Strap (SH)**

5340-00-235-4433

**Strap, Webbing (SH)**

5340-00-286-6895

**CLASS 5350****Cloth, Abrasive (IB)**

5350-00-187-6270

5350-00-187-6275

5350-00-187-6272

5350-00-187-6269

5350-00-187-6268

5350-00-187-6286

5350-00-187-6285

5350-00-187-6284

5350-00-187-6283

5350-00-187-6281

5350-00-187-6280

5350-00-187-6297

5350-00-187-6296

5350-00-229-3088

5350-00-229-3085

5350-00-187-6295

5350-00-187-6294

5350-00-187-6293

5350-00-187-6292

5350-00-187-6291

5350-00-274-6209

5350-00-187-6290

5350-00-187-6289

5350-00-187-7986

5350-00-229-3097

5350-00-229-3094

5350-00-229-3095

5350-00-229-3080

5350-00-229-3081

5350-00-229-3092

5350-00-192-9325

**Mat, Abrasive (IB)**

5350-00-967-5089

5350-00-967-5093

5350-00-967-5092

**CLASS 5440****Ladder, Extension (Wood) (IB)**

54400-00-223-6025

54400-00-242-1000

54400-00-223-6026

54400-00-242-0998

54400-00-223-6027

**Ladder, Straight (Wood) (IB)**

54400-00-242-7151

54400-00-816-2585

54400-00-814-5084

54400-00-242-0995

54400-00-816-2575

54400-00-223-6029

54400-00-223-6030

**Stepladder (IB)**

54400-00-514-4483

54400-00-514-4485

54400-00-514-4487

54400-00-171-9836

54400-00-227-1592

54400-00-227-1593

54400-00-227-1594

54400-00-227-1595

54400-00-227-1596

55400-00-531-2589

**CLASS 5510****Lath, Wood (SH)**

5510-00-NSH-0002 (3/8 x 1 1/2 x 36")

5510-00-NSH-0003 (3/8 x 1 1/2 x 48") BLM

and U.S. Forest Service in Washington

and Oregon only

**Stake, Wood (SH)**

5510-00-NSH-0001 BLM or 5 Oregon

locations only U.S. Forest Service in

Washington and Oregon only

**Stakes, Wood, Hub (SH)**

5510-00-171-7733

5510-00-171-7732

**Stakes, Wood, Location (SH)**

5510-00-171-7701

5510-00-171-7700

5510-00-171-7734

**Wedge, Wood (SH)**

5510-00-640-9237

**CLASS 5660****Fasteners, Fence Post (SH)**

5660-00-148-7251

**Stay, Fence (SH)**



5660-00-943-9927  
5660-00-904-8023  
5660-00-607-0286  
5660-00-607-0287

**CLASS 5831**

Amplifier Subassembly (SH)  
5831-00-087-3408

**CLASS 5940**

Adapter, Battery Terminal (SH)  
5940-00-549-6583  
5940-00-549-6581

**CLASS 6230**

Flashlight (SH)  
6230-00-163-1856  
6230-00-781-3671  
Lantern, Electric, Head (SH)  
6230-00-643-3562  
Light, Desk (SH)  
6230-00-299-7771  
6230-00-682-3423  
Light, Marker, Distress (SH)  
6230-00-892-5192  
Light-Marker, Distress (without pouch) (SH)  
6230-00-938-1778  
Light-Marker, Distress (with pouch) (SH)  
6230-00-067-5209

**CLASS 6005**

Ammonia Inhalant Solution, Aromatic (SH)  
6505-00-106-0875

**CLASS 6510**

Bandage, Muslin, Compressed Camouflaged (SH)  
6510-00-201-1755

**CLASS 6515**

Bag, Tube Feeding (SH)  
6515-00-481-2049  
Case, Ear Plug (SH)  
6515-01-212-9452  
Kit, Suture Removal (IB)  
6515-00-690-6911  
Surgical Pack, Disposable (IB)  
6515-00-103-6659  
Tourniquet, Non-Pneumatic (IB)  
6515-00-383-0565

**CLASS 6530**

Bag, Urine Collection (SH)  
6530-00-761-0932  
6530-00-057-0953  
6530-00-761-0936  
6530-01-074-6600  
Cover, Litter (IB)  
6530-00-784-1250  
Drape, Surgical (IB)  
6530-00-299-9608  
6530-00-299-9607  
6530-00-299-9605  
6530-00-299-9604  
Kit, Shaving Surgical Preparation (IB)  
6530-00-676-7372  
Litter, Folding (IB)  
6530-00-783-7905  
Pad, Cooling, Chemical (SH)  
6530-00-133-4299  
Pad, Litter (IB)  
6530-00-137-3016  
Pad, Pre-Operative Preparation (IB)  
6530-00-457-8193  
Paper Sheeting, Examination Table (IB)

6530-01-092-3914  
6530-00-269-3598  
6530-00-786-4790  
Spineboard (SH)  
6530-01-119-0011  
6530-01-119-0012  
Spreader Bar and Stirrups, Litter (IB)  
6530-00-784-3450  
Strap, Webbing Patient Securing (IB)  
6530-00-784-4205  
Strap, Webbing, Litter Securing (IB)  
6530-00-784-4335  
Surgical Dressing Set (IB)  
6530-00-105-5826  
Surgical Pack, Disposable (IB)  
6530-01-174-8844  
Towel Pack, Surgical (IB)  
6530-00-110-1854  
Urinal, Incontinent (IB)  
6530-01-004-8969  
6530-00-290-8292  
6530-01-081-5303  
6530-01-081-5304  
Urinary Drainage Set (SH)  
6530-01-056-3659  
Wrapper, Sterilization (IB)  
6530-00-299-9603  
6530-00-197-9223  
6530-00-197-9283  
6530-00-926-4902  
6530-00-926-4903  
6530-00-926-4904  
6530-00-296-4905  
6530-00-197-9228  
6530-01-246-1935  
6530-01-248-4813  
6530-01-244-2776  
6530-01-244-9946  
6530-01-246-0156

**CLASS 6532**

Cap—Operating, Surgical (SH)  
6532-00-250-5042  
6532-00-083-6545  
6532-00-250-5041  
6532-00-122-0468  
Clothing, Operating Room (SH)  
6532-00-172-3509  
6532-00-172-3507  
6532-00-172-3506  
6532-00-158-9890  
6532-00-009-7174  
Coat, Women's Pajama (SH)  
6532-01-216-3199  
6532-01-215-8093  
6532-01-222-6565  
6532-01-222-3116  
Gown, Hospital (SH)  
6532-00-104-9895  
Gown, Hospital, Patient's Bedshirt (SH)  
6532-01-005-8411  
6532-01-005-8412  
Gown, Hospital, Personnel (SH)  
6532-01-045-5380  
6532-01-045-5381  
Gown, Operating, Surgical (SH)  
6532-00-009-2034  
6532-00-009-2035  
Gown, Patient Examining (SH)  
6532-00-421-7828  
Gown, Operating, Surgical (IB)  
6532-01-058-2518  
6532-01-058-2519  
6532-01-058-2520  
6532-01-058-2521  
6532-01-058-2522

6532-01-058-2523  
6532-01-058-2524  
6532-01-058-2525  
Pillowcase—Disposable (IB)  
6532-01-125-3269  
Robe, Dressing, Men's (SH)  
6532-01-215-7963  
6532-01-215-7964  
Robe, Dressing, Women's (SH)  
6532-01-215-7966  
6532-01-215-7965  
Shirt, Operating, Surgical (IB)  
6532-00-299-9627  
6532-00-299-9634  
6532-00-299-9633  
6532-00-299-9632  
Shirt, Operating, Surgical (SH)  
6532-00-149-0322  
6532-00-149-0323  
6532-00-149-0324  
6532-00-149-0325  
Slippers, Convalescent Patient (SH)  
6532-00-241-6393  
6532-00-279-7794  
6532-00-079-7889  
6532-00-079-7899  
6532-00-079-7902  
6532-00-079-7904  
6532-01-011-5055  
6532-01-011-5056  
6532-01-011-5057  
Smock, Man's Dental Operating (SH)  
6532-00-159-4881  
6532-00-926-9964  
6532-00-926-9975  
6532-00-926-9976  
Smock, Medical Assistant (SH)  
6532-00-117-7487  
6532-00-117-7542  
6532-00-117-7543  
6532-00-117-7546  
Suit, Convalescent (SH)  
6532-01-076-8684  
6532-01-076-8683  
6532-01-076-7369  
6532-01-076-9769  
Trousers, Operating, Surgical (IB)  
6532-00-299-9628  
6532-00-299-9629  
6532-00-299-9630  
6532-00-299-9631  
Trousers, Operating, Surgical (SH)  
6532-00-149-0327  
6532-00-149-0328  
6532-00-149-0329  
6532-00-149-0330  
Trousers, Women's Pajama (SH)  
6532-01-216-2425  
6532-01-216-2426  
6532-01-226-2961  
6532-01-226-2962

**CLASS 6540**

Case, Spectacles (IB)  
6540-01-131-7919  
6540-01-131-7918

**CLASS 6625**

Test Set, Lead (SH)  
6625-00-553-1442  
6625-00-395-9313  
6625-01-121-0510

**CLASS 6630**

Micro Bleeder (IB)



6630-01-NIB-0002  
Tube, Bleeding (IB)  
6630-01-NIB-0001

**CLASS 6645**

Clock, Wall (IB)  
6645-00-514-3523  
6645-00-530-3342  
6645-01-046-8848  
6645-01-046-8849

**CLASS 6695**

Sampling Kit, Spectrometric Oil Analysis (IB)  
6695-01-045-9820

**CLASS 6840**

Disinfectant, Detergent (IB)  
6840-00-687-7904  
6840-00-584-3129  
6840-00-551-8346

**CLASS 7105**

Frame, Picture (SH)  
7105-00-053-0170  
7105-00-061-5834  
7105-00-052-8697  
7105-00-052-8695  
7105-00-465-6199  
7105-00-297-3398  
7105-00-903-1842  
7105-00-903-1843  
7105-00-149-1282  
7105-00-149-1281  
7105-00-641-4385  
7105-00-297-3397  
7105-00-052-8696  
7105-00-149-1276  
7105-00-051-1212  
7105-00-052-8686  
7105-00-052-8698  
Table, Coffee (SH)  
7105-00-139-7573  
7105-00-139-7601  
Table, End (SH)  
7105-00-139-7598  
Table, Lamp (SH)  
7105-00-139-7600

**CLASS 7110**

Blackboard (SH)  
7110-00-132-6651  
Bookcase, Steel, Contemporary (SH)  
7110-00-601-9823  
7110-00-149-1621  
Bookcase, Wood, Executive (SH)  
7110-00-973-5127  
Credenza (SH)  
7110-00-762-5513  
Table, Office, Wood (SH)  
7110-00-958-0780  
7110-00-823-7675  
7110-00-903-3061  
7110-00-902-3052  
Table, Steel (SH)  
7110-00-113-0448  
7110-00-113-0454  
7110-00-149-2044  
7110-00-149-2045  
7110-00-149-2046

**CLASS 7125**

Cabinet, Storage (SH)  
7125-00-449-6862  
7125-00-378-4261

**CLASS 7195**

Bulletin Board (IB)  
7195-00-989-2370  
7195-00-844-9036  
7195-00-989-2371  
7195-00-844-9037  
7195-00-989-2372  
7195-00-844-9038  
7195-00-990-0615  
7195-00-843-7938  
Costumer, Wood, Executive (SH)  
7195-00-132-6642

**CLASS 7210**

Bedspring (IB)  
7210-00-728-0186  
7210-00-728-0187  
7210-00-728-0188  
7210-00-728-0189  
7210-00-728-0190  
7210-00-728-0191  
7210-00-728-0173  
7210-00-728-0175  
7210-00-728-0176  
7210-00-728-0177  
7210-00-728-0178  
7210-00-728-0179  
7210-00-408-2800  
Bedspring (IB)  
7210-00-582-7540  
7210-00-582-0984  
7210-00-110-8104  
7210-00-582-7541  
7210-00-110-8105  
Blanket, Bed/Bath (Flame Resistant) (IB)  
7210-01-141-2458  
Boxspring (IB)  
7210-01-228-5735  
7210-01-228-5736  
7210-01-228-5737  
7210-01-228-5738  
7210-01-NIB-0005  
7210-01-NIB-0006  
Cover, Bed (IB)  
7210-01-116-7860  
7210-01-120-0679  
7210-01-116-7858  
7210-01-116-7859  
7210-01-118-4085  
7210-01-116-7855  
7210-01-116-7856  
7210-01-116-7857  
7210-01-116-7854  
7210-01-116-7853  
7210-01-120-8015  
7210-01-124-7626  
7210-01-120-8013  
7210-01-120-8014  
7210-01-120-8011  
7210-01-120-8010  
7210-01-122-5015  
7210-01-120-8012  
7210-01-125-9250  
7210-01-120-8009  
7210-01-123-5148  
7210-01-120-8017  
7210-01-120-8021  
7210-01-120-8022  
7210-01-120-8018  
7210-01-124-8303  
7210-01-120-8019  
7210-01-120-8020  
7210-01-123-5149  
7210-00-120-8016  
Cover, Mattress (IB)  
7210-01-291-8419

7210-00-205-3083  
7210-00-205-3082  
7210-00-067-7969  
7210-00-998-7745  
7210-00-883-8492  
7210-00-140-4231  
7210-00-140-4234  
7210-00-543-6001  
7210-00-171-1091  
7210-00-935-6619  
7210-00-230-1041  
7210-00-241-9718  
7210-00-543-6002  
7210-00-140-4233  
7210-01-245-4392  
7210-01-245-4393  
Insect Bar, Cot (SH)  
7210-00-266-9740  
Insect Bar, Nylon (SH)  
7210-00-266-9736  
Mattress, Innerspring (Nonappropriated Fund) (IB)  
7210-01-228-5726  
7210-01-228-5727  
7210-01-228-5728  
7210-01-228-5729  
7210-00-NIB-0003  
7210-00-NIB-0004  
Mattress, Cotton-Felt (IB)  
7210-00-139-6517  
7210-00-139-6555  
7210-00-139-6538  
Mattress, Foam (IB)  
7210-00-290-8300  
7210-00-275-5873  
7210-00-275-5874  
7210-00-290-8298  
7210-00-290-8297  
7210-00-052-7327  
7210-00-889-3733  
7210-00-290-8299  
7210-00-682-6503  
7210-00-682-6504  
Mattress, Innerspring (IB)  
7210-00-205-3585  
7210-00-139-6424  
7210-00-716-0706  
7210-00-139-6411  
7210-00-205-3534  
7210-00-139-6434  
7210-00-139-6428  
7210-00-110-8102  
7210-00-110-8103  
7210-01-177-3627  
7210-01-177-3628  
7210-01-177-1491  
7210-01-177-1492  
7210-01-177-1494  
7210-01-177-1495  
7210-01-177-1496  
7210-01-177-1497  
7210-01-177-1498  
7210-01-177-1499  
7210-01-177-1500  
7210-01-177-1501  
7210-01-177-1503  
7210-01-177-1504  
7210-01-177-1505  
7210-01-177-1506  
7210-01-177-1507  
7210-01-177-1508  
7210-01-177-1509  
7210-01-177-1510  
7210-01-177-1512  
7210-01-177-1513



7210-01-177-1514  
 7210-01-177-1515  
 7210-01-076-9031  
 7210-01-076-1087  
 7210-01-078-2593  
 7210-01-076-1082  
 7210-01-076-1089  
 7210-01-076-9029  
 7210-01-076-1083  
 7210-01-076-1085  
 7210-01-076-8730  
 7210-01-076-1086  
 7210-01-077-9358  
 7210-01-075-8358  
 7210-01-076-1088  
 7210-01-076-8359  
 7210-01-076-1084  
 7210-01-076-9030  
 Mattress, Neoprene, Foam (IB)  
 7210-01-244-9734  
 7210-01-244-9735  
 Mattress, Plastic Coated Innerspring (IB)  
 7210-00-995-1093  
 7210-00-682-7146  
 7210-00-529-3709  
 7210-01-138-8177  
 Pad, Mattress (IB)  
 7210-00-227-1526  
 7210-00-753-3042  
 Pillow, Bed (IB)  
 7210-01-035-3342  
 7210-00-753-6228  
 7210-00-894-1144  
 7210-01-015-5190  
 7210-00-119-5358  
 Pillow, Bed (Feather) (IB)  
 7210-00-205-3205  
 Pillow, Passenger, Headrest (IB)  
 7210-00-682-6601  
 Pillowcase (SH)  
 7210-00-119-7357  
 7210-01-030-5311  
 Pillowcase, Cotton/Cotton Polyester (IB)  
 7210-00-054-7910  
 7210-00-259-9005  
 7210-00-259-9006  
 7210-00-119-7356  
 7210-00-231-2373  
 7210-00-259-9004  
 7210-00-259-8897  
 7210-00-081-1380  
 Pillowcase, Disposable (IB)  
 7210-00-883-8494  
 7210-00-852-3417  
 Protector, Hospital Bed, Pillow (IB)  
 7210-00-958-9118  
 Protector, Mattress, Hospital Bed (IB)  
 7210-00-761-1471  
 7210-00-761-1470  
 Sheet, Bed (IB)  
 7210-00-299-9611  
 Sheet, Bed—Disposable (SH)  
 7210-00-144-6082  
 Sheet, Bed, Disposable (IB)  
 7210-00-498-0512 Memphis, TN and  
 Tracy, CA Depots only  
 7210-00-139-6376  
 Tablecloth (SH)  
 7210-00-492-8381  
 Towel, Bath, Disposable (IB)  
 7210-01-029-0370  
 Washcloth (IB)  
 7210-01-013-2824

**CLASS 7220**

Mat, Floor (SH)

7220-00-205-3192  
 7220-00-205-3182  
 7220-00-151-6518  
 7220-00-457-6046  
 7220-00-457-6054  
 Mat, Floor (IB)  
 7220-00-205-3099  
 7220-00-224-6487  
 7220-00-238-8852  
 7220-00-224-6486  
 7220-00-238-8854  
 7220-00-165-7020  
 7220-01-023-9489

**CLASS 7230**

Curtain, Shower (IB)  
 7230-00-205-1762  
 7230-00-247-1280  
 7230-00-849-9838  
 7230-00-849-9839

**CLASS 7290**

Cover, Ironing Board (IB)  
 7290-00-130-3271

**CLASS 7330**

Pad, Bakery (IB)  
 7330-00-379-4439  
 Tongs, Food Serving (SH)  
 7330-00-616-0997  
 7330-00-616-0998  
 7330-00-616-1000

**CLASS 7340**

Flatware, Plastic, Heavy Duty (IB)  
 7340-00-022-1315  
 7340-00-022-1316  
 7340-00-022-1317  
 7340-00-401-8041  
 Flatware, Plastic, Picnic (IB)  
 7340-00-170-8374  
 7340-00-205-3187  
 7340-00-205-3342  
 Medium Weight Plastic Cutlery (IB)  
 7340-00-NIB-0005  
 7340-00-NIB-0006  
 7340-00-NIB-0007  
 7340-00-NIB-0008  
 Army and Air Force Exchange Service only  
 Spoon, Picnic, Plastic (IB)  
 7340-00-J19-1300

**CLASS 7360**

Dining Packet (IB)  
 7360-00-935-6407  
 7360-00-935-6408  
 7360-00-935-6409  
 7360-00-935-6410  
 7360-00-935-6411  
 7360-00-935-6412  
 7360-00-935-6413  
 7360-01-J19-2026  
 Dining Packet (Dietetic) (IB)  
 7360-00-177-4958  
 7360-00-177-4959  
 7360-00-177-4960  
 7360-00-177-4961  
 7360-00-177-4962  
 7360-00-177-4963  
 7360-00-935-6416  
 7360-00-935-6417  
 7360-00-935-6420  
 7360-00-935-6421  
 Dining Packet, Inflight (IB)  
 7360-00-660-0526  
 7360-01-167-2610

Flatware Set, Plastic (IB)  
 7360-00-634-4800

**CLASS 7510**

Binder, Awards Certificate (IB)  
 7510-00-115-3250  
 7510-00-482-2994  
 7510-00-755-7077  
 7510-01-056-1927  
 Binder, Looseleaf, (Pressboard) (IB)  
 7510-00-281-4309  
 7510-00-281-4314  
 7510-00-582-4201  
 7510-00-281-4310  
 7510-00-281-4311  
 7510-00-281-4313  
 7510-00-281-4315  
 7510-00-286-7792  
 7510-00-286-7794  
 7510-00-582-5488  
 7510-00-286-7791  
 7510-00-582-3807  
 Binder, Looseleaf, Presentation (IB)  
 7510-00-582-5398  
 7510-00-582-5399  
 7510-00-582-5400  
 Binder, Looseleaf, Three Ring (IB)  
 7510-00-782-2663  
 7510-00-409-8646  
 7510-00-409-8647  
 7510-00-984-5787  
 Binder, Looseleaf, Printout (IB)  
 7510-00-965-2443  
 Binder, Looseleaf, Three Ring (SH)  
 7510-00-889-3494  
 Binder, Note Pad (IB)  
 7510-00-286-6954  
 7510-00-145-0296  
 7510-00-728-8060  
 7510-01-053-5591  
 Board, Wall Calendar (IB)  
 7510-00-789-2455  
 Calendar Pad (SH)  
 7510-01-225-9213 (1988)  
 7510-01-225-9214 (1989)  
 Clip, Binder (SH)  
 7510-00-282-8201  
 7510-00-223-6807  
 7510-00-285-5995  
 Clip, Paper (SH)  
 7510-00-161-4292  
 Envelope, Crystal Clear Vinyl (IB)  
 7510-00-NIB-0003  
 7510-00-NIB-0004  
 7510-00-NIB-0005  
 7510-00-NIB-0006  
 Envelope, Transparent (IB)  
 7510-00-782-6274  
 7510-00-782-6275  
 7510-00-782-6276  
 Eraser, Blackboard (IB)  
 7510-00-244-9145  
 Eraser, Mechanical Pencil (IB)  
 7510-00-307-7885  
 File Back (IB)  
 7510-00-NIB-0002  
 File Backer, Paper (IB)  
 7510-00-285-2567  
 File Front (IB)  
 7510-00-NIB-0001  
 Pad, Typewriter (IB)  
 7510-00-257-2576  
 7510-00-530-6412  
 7510-00-849-1137  
 Paperweight, Shotfilled (IB)



7510-00-286-6985  
Pencil (IB)  
7510-00-286-5757  
7510-00-281-5234  
7510-00-281-5235  
Pencil, Fine-Line Writing (IB)  
7510-00-286-5755  
7510-00-286-5750  
7510-00-286-5751  
Pocket Planning Set (SH)  
7510-01-226-2953 (1988)  
7510-01-226-2954 (1989)  
Portfolio, Double Pocket (IB)  
7510-00-584-2489  
7510-00-584-2490  
7510-00-584-2491  
7510-00-584-2492  
Portfolio, Plastic Envelope (IB)

7510-00-558-1572  
7510-00-558-1573  
7510-00-995-4856  
7510-00-995-4852  
Refill, Ballpoint Pen (IB)  
7510-00-543-6792  
7510-00-543-6793  
7510-00-754-2687  
7510-00-543-6795  
7510-00-754-2688  
7510-00-754-2689  
7510-00-754-2690  
7510-00-754-2691  
Refill, List Finder, Automatic (SH)  
7510-00-285-2800  
Sheath, Pen and Pencil (IB)  
7510-00-052-2664

**CLASS 7520**

Arch Board File (IB)  
7520-00-240-5498  
7520-00-191-1075  
7520-00-255-7081  
Ballpoint Pen (IB)  
7520-00-935-7136  
7520-00-935-7135  
7520-00-543-7149  
Ballpoint Pen, Stick-type (IB)  
7520-01-058-9978  
7520-01-058-9977  
7520-01-058-9976  
7520-01-059-4125  
7520-01-060-5820  
7520-01-058-9975  
7520-01-060-8513  
7520-01-060-5821  
Ballpoint Pen, with Imprinting (IB)  
7520-00-8LP-6520  
Book Ends (IB)  
7520-00-264-5479  
7520-00-139-6158  
Box, Filing (SH)  
7520-00-285-3147  
7520-00-285-3143  
7520-00-285-3144  
7520-00-285-3145  
7520-00-285-3146  
7520-00-285-3148  
7520-00-139-3734  
7520-00-240-4830  
7520-00-240-4831  
7520-00-139-3743  
7520-00-240-4839  
Case, Maintenance & Operational Manuals (IB)  
7520-00-559-9618  
Clipboard File (IB)  
7520-00-281-5918

7520-00-254-4610  
7520-00-240-5503  
Easel, Display & Training (IB)  
7520-00-579-7013  
File, Horizontal Desk (SH)  
7520-00-139-4869  
7520-00-728-5761  
File, Work Organizer (SH)  
7520-00-286-1722  
7520-00-286-1723  
7520-00-833-7343  
Holder, Desk Memorandum (IB)  
7520-00-139-3802  
7520-00-290-6445  
Marker, Tube Type, Broad Tip (IB)  
7520-00-973-1059  
7520-00-973-1060  
7520-00-079-0285  
7520-00-973-1061  
7520-00-079-0286  
7520-00-079-0287  
7520-00-973-1062  
7520-00-079-0288  
7520-00-904-4476  
7520-00-558-1501  
Marker, Tube Type, Fine Tip (IB)  
7520-00-904-1265  
7520-00-904-1268  
7520-00-935-0979  
7520-00-904-1267  
7520-00-935-0981  
7520-00-935-0982  
7520-00-904-1266  
7520-00-935-0980  
7520-00-051-5031  
7520-00-051-5035  
7520-00-116-2888  
7520-00-051-5036  
7520-00-116-2886  
7520-00-116-2889  
7520-00-051-5033  
7520-00-116-2887  
7520-00-138-7981  
Pen Set, Desk (IB)  
7520-00-106-9840  
Pencil, Mechanical (IB)  
7520-00-223-6672  
7520-00-223-6673  
7520-00-268-9913  
7520-00-223-6675  
7520-00-223-6676  
7520-00-285-5826  
7520-00-285-5822  
7520-00-285-5823  
7520-00-161-5664  
7520-00-164-8950  
7520-00-268-9915  
7520-00-268-9916  
7520-00-724-5606  
7520-00-590-1878  
7520-01-132-4996  
Perforator, Paper, Desk (SH)  
7520-00-139-4101  
7520-00-263-3425  
Stand, Calendar Pad (IB)  
7520-00-162-6153  
7520-00-162-6156  
7520-00-139-4277  
7520-00-139-4341  
Tray, Desk (SH)  
7520-00-232-6828  
7520-00-286-5801  
7520-00-285-5043  
Trimmer, Paper (IB)  
7520-00-224-7620  
7520-00-224-7621

Rgns 1,2,3,W,4,5,6,7

7520-00-163-2568  
7520-00-634-4675  
7520-00-282-2137

**CLASS 7530**

Book, Memorandum (IB)  
7530-00-286-6952  
Card Set, Guide, File (IB)  
7530-00-989-0698  
7530-00-989-0697  
7530-00-989-0683  
7530-00-082-2635  
7530-00-989-0684  
7530-00-989-0686  
7530-00-989-0692  
7530-00-989-0694  
7530-00-989-0693  
7530-00-989-0695  
Card, Guide, File (IB)  
7530-00-989-0184  
7530-00-989-2425  
7530-00-988-6541  
7530-00-988-6542  
7530-00-988-6543  
7530-00-988-6549  
7530-00-988-6550  
7530-00-988-6551  
7530-00-988-6544  
7530-00-988-6545  
7530-00-988-6546  
7530-00-988-6547  
7530-00-988-6548  
7530-00-988-6515  
7530-00-988-6516  
7530-00-988-6520  
7530-00-988-6521  
7530-00-988-6517  
7530-00-988-6518  
7530-00-988-6522  
Card, Index (IB)  
7530-00-238-4316  
7530-00-244-7453  
7530-00-244-7456  
7530-00-244-7451  
7530-00-244-7459  
7530-00-238-4319  
7530-00-949-2787  
7530-00-238-4331  
7530-00-243-9436  
7530-00-247-0310  
7530-00-281-1315  
7530-00-247-0318  
7530-00-264-3723  
7530-00-247-0311  
7530-00-244-7447  
7530-00-247-0315  
7530-00-243-9437  
Envelope, Wallet (IB)  
7530-00-281-5976  
7530-00-281-4844  
7530-00-281-4846  
Folder, File, Kraft (IB)  
7530-00-889-3555  
7530-00-559-4512  
7530-00-281-5907  
7530-00-281-5908  
7530-00-926-8978  
7530-00-926-8980  
Folder, File, Manila (IB)  
7530-00-273-9845  
Folder, File, Military Personnel Records Jacket (IB)  
7530-DA Form 201  
Folder, File, Pressboard (IB)  
7530-00-926-8981



7530-00-286-6924  
 7530-00-926-8982  
 7530-00-926-8983  
 7530-00-926-8984  
 7530-00-043-1194  
 7530-00-739-7723  
 Folder, File, Special-Purpose (IB)  
 7530-00-811-7169  
 Folder-Set, File, Pressboard (IB)  
 7530-00-286-6923  
 7530-00-286-7080  
 7530-00-286-7244  
 7530-00-286-7253  
 7530-00-286-7286  
 7530-00-286-7287  
 7530-00-286-8570  
 7530-00-286-8571  
 7530-00-286-6925  
 7530-00-286-6926  
 Index Sheet Set, Looseleaf Binder (IB)  
 7530-00-160-8474  
 7530-00-160-8475  
 7530-00-160-8476  
 7530-00-959-4441  
 Jacket, Filing, Wallet (IB)  
 7530-00-285-2913  
 7530-00-285-2914  
 7530-00-285-2915  
 Notebook, Stenographer's (IB)  
 7530-00-223-7939  
 Pad, Writing Paper (IB)  
 7530-00-285-3090 Rgns 1,5,6 only  
 7530-00-239-8479 All Regions  
 7530-01-131-1889 All Regions  
 7530-01-124-5660 Rgns W,1,3,4,5,6,7,8  
 7530-01-131-0091 Rgns W,1,3,4,5,6,7,8  
 7530-01-124-7632 Rgns W,1,2,3,5,7  
 Pad, Writing Paper (Easel) (IB)  
 7530-00-619-8880  
 Paper Set, Manifold and Carbon (IB)  
 7530-00-401-6910 Rgns W,4,6,7,9  
 7530-01-072-2536 Rgns W,4,6,7,9  
 7530-01-072-2537 Rgns W,4,6,7,9  
 7530-01-072-2538 Rgns W,4,6,7,9  
 7530-01-072-2539 Rgns W,4,6,7,9  
 Paper, Looseleaf, Blank (IB)  
 7530-00-286-6983  
 7530-00-286-6984  
 Paper, Carbon, Typewriter (IB)  
 7530-00-244-4035 Rgns 1,2,3,6,7,8  
 Paper, Looseleaf, Blank (IB)  
 7530-00-286-5777  
 7530-00-286-5778  
 7530-00-286-5782  
 7530-00-286-5780  
 7530-00-286-5781  
 7530-00-286-5779  
 Paper, Looseleaf, Ruled (IB)  
 7530-00-286-6366  
 7530-00-286-4332  
 7530-00-286-4331  
 7530-00-286-4333  
 7530-00-286-4334  
 7530-00-286-4335  
 7530-00-286-6265  
 7530-00-286-4336  
 7530-00-286-4337  
 7530-00-286-4338  
 7530-00-286-4339  
 Paper, Teletypewriter, Roll (IB)  
 7530-00-019-6674  
 7530-00-019-6931  
 7530-00-019-7287  
 7530-00-019-7463  
 7530-00-223-7966  
 7530-01-056-2900

7530-00-721-9691  
 7530-00-223-7969  
 7530-00-262-9178  
 7530-00-142-9037  
 7530-00-943-7076  
 7530-00-272-9811  
 7530-00-285-3054  
 7530-00-285-5030  
 7530-00-286-7766  
 7530-00-019-7837  
 7530-00-019-7849  
 7530-00-019-7850  
 7530-00-019-8608  
 7530-00-019-8810  
 7530-00-142-9038  
 Paper, Writing (IB)  
 7530-00-285-5836  
 7530-00-047-3738  
 Refill, Appointment Book (SH)  
 7530-01-228-9702 (1988)  
 7530-01-228-9703 (1989)  
 Tape, Paper, Computing Machine (IB)  
 7530-00-286-9052  
 7530-00-222-3455  
 7530-00-286-9053  
 7530-00-286-9054  
 7530-00-238-8352  
 7530-00-222-3456  
 7530-00-286-9055  
 Tape, Postage Meter (IB)  
 7530-00-912-3924  
 7530-00-912-3925

**CLASS 7670**

Microfiche, Subject Headings and Name  
 Authorities (SH)  
 7670-00-NSH-0001  
 Library of Congress only

**CLASS 7690**

Microfiche Programs (SH)  
 7690-00-NSH-0007 B212-S  
 7690-00-NSH-0008 B214-S

**CLASS 7699**

Innerspring Mattress Rehab (w/o handles)  
 (IB)  
 Group I Less than 36" wide  
 Group II 36" to 41" wide  
 Group III Over 41" to 49" wide  
 Group IV Over 49" wide  
 Innerspring Mattress Rehabilitation (w/  
 handles) (IB)  
 Group I Less than 36" wide  
 Group II 36" to 41" wide  
 Group III Over 41" to 49" wide  
 Group IV Over 49" wide

**CLASS 7910**

Pad, Floor Polishing Machine (IB)  
 7910-00-685-6686  
 7910-00-685-6687  
 7910-00-685-3908  
 7910-00-685-6671  
 7910-00-685-3909  
 7910-00-685-6672  
 7910-00-685-3910  
 7910-00-685-6656  
 7910-00-685-6657  
 7910-00-685-3912  
 7910-00-685-6659  
 7910-00-685-3915  
 7910-00-685-6660  
 7910-00-685-3914  
 7910-00-685-4239  
 7910-00-685-4240

7910-00-685-4242  
 7910-00-685-4243  
 7910-00-685-4241  
 7910-00-685-4244  
 7910-00-685-4245  
 7910-00-820-7991  
 7910-00-820-7989  
 7910-00-820-7990  
 7910-00-820-9926  
 7910-00-820-9925  
 7910-00-820-9924  
 7910-00-820-9898  
 7910-00-820-7997  
 7910-00-820-7996  
 7910-00-820-9903  
 7910-00-820-9904  
 7910-00-820-9905  
 7910-00-820-9900  
 7910-00-820-9901  
 7910-00-820-9899  
 7910-00-820-9922  
 7910-00-820-9918  
 7910-00-820-9917  
 7910-00-820-9916  
 7910-00-820-9915  
 7910-00-820-9914  
 7910-00-820-9913  
 7910-00-820-9912  
 7910-00-820-9911  
 7910-00-820-9910

**CLASS 7920**

Broom, Push (IB)  
 7920-00-267-2967  
 Broom, Upright (IB)  
 7920-00-292-4371  
 7920-00-292-4375  
 7920-00-292-4372  
 7920-00-291-8305  
 Broom, Whisk (IB)  
 7920-00-240-6350  
 Brush, Chassis and Running Gear (IB)  
 7920-00-255-7536  
 Brush, Cleaning, Aircraft (IB)  
 7920-00-051-4384  
 Brush, Dusting (IB)  
 7920-00-178-8315  
 Brush, Floor Sweeping (IB)  
 7920-00-243-3407  
 7920-00-292-2363  
 7920-00-292-2367  
 7920-00-264-4638  
 7920-00-292-2362  
 7920-00-292-2365  
 Brush, Plater's, Hand (IB)  
 7920-00-267-1215  
 7920-00-267-1213  
 Brush, Sanitary (IB)  
 7920-00-772-5800  
 7920-00-234-9317  
 Brush, Scrub (IB)  
 7920-00-240-7174  
 7920-00-951-8795  
 7920-00-282-2470 Tampico Fibers  
 7920-00-282-2470 Styrene Fibers  
 7920-00-297-1511  
 7920-00-061-0038  
 Brush, Shoe and Stove (IB)  
 7920-00-852-8170  
 Brush, Wire, Scratch (IB)  
 7920-00-291-5815  
 7920-00-282-9246  
 7920-00-246-8501  
 7920-00-223-7649  
 7920-00-269-1259



7920-00-255-5135  
 7920-00-269-0933  
 Brush, Wire, Stainless Steel (IB)  
 7920-00-958-1157  
 Brush-Set, Shoe and Stove (IB)  
 7920-00-205-0200  
 Cloth, Polishing (IB)  
 7920-00-205-1656  
 Cloth, Wiping (SH)  
 7920-LL-L03-6103  
 7920-LL-L03-6134  
 Pearl Harbor Naval Shipyard, Pearl Harbor, HI only  
 Cloth, Wiping ("Jean Cotton") (SH)  
 7920-LL-L01-0013  
 7920-LL-L01-0014  
 Portsmouth Naval Shipyard, Portsmouth, NH only  
 Handle, Mop (IB)  
 7920-00-205-1168  
 7920-00-267-1218  
 7920-00-205-1167  
 7920-00-550-9902  
 7920-00-550-9911  
 7920-00-550-9912  
 7920-00-998-2485  
 7920-00-998-2486  
 7920-00-851-0140  
 7920-00-851-0142  
 7920-00-246-0930  
 7920-00-205-1170  
 Handle, Paint Roller (IB)  
 7920-00-682-6512  
 Handle, Wood (IB)  
 7920-00-177-5106  
 7920-00-141-5452  
 7920-00-263-0328  
 Kit, Aircraft Cleaning (IB)  
 7920-00-490-6046  
 Mop, Dusting, Cotton (IB)  
 7920-00-205-0481  
 7920-00-205-0483  
 7920-00-245-8289  
 7920-00-205-0484  
 Mop, Wet (IB)  
 7920-00-224-8726  
 Mop, Wet, Cellulose (Sponge Refill) (IB)  
 7920-00-471-2876  
 Mop, Wet, Cellulose, Complete (IB)  
 7920-00-432-7117  
 Mophead, Dusting, Cotton (IB)  
 7920-00-634-0201  
 7920-00-267-4921  
 7920-00-998-2482  
 7920-00-998-2483  
 7920-00-998-2484  
 7920-00-851-0141  
 7920-00-205-0485  
 7920-00-205-0487  
 7920-00-205-0488  
 Mophead, Wet (IB)  
 7920-00-205-0425  
 7920-00-205-0426  
 7920-00-141-5549  
 7920-00-171-1148  
 7920-00-141-5550  
 7920-00-141-5547  
 7920-00-141-5548  
 7920-00-141-5544  
 7920-00-926-5492  
 7920-00-926-5493  
 7920-00-926-5494  
 7920-00-926-5495  
 7920-00-926-5496  
 7920-00-926-5497  
 7920-00-926-5498

7920-00-926-5499  
 7920-00-926-5501  
 7920-00-926-5502  
 Pad, Scouring (IB)  
 7920-00-753-5242  
 7920-00-151-6120  
 Scraper and Squeegee (IB)  
 7920-00-045-2556  
 Sponge, Cellulose (IB)  
 7920-00-161-6219  
 7920-00-633-9928  
 7920-00-240-2559  
 7920-00-884-1116  
 7920-00-884-1115  
 7920-00-633-9905  
 7920-00-240-2555  
 7920-00-633-9906  
 Sponge, Plastic (IB)  
 7920-00-633-9908  
 7920-00-633-9911  
 7920-00-633-9915  
 7920-00-685-4152  
 Squeegee (SH)  
 7920-00-224-8339  
 Squeegee, Window-Cleaning (IB)  
 7920-00-577-4744  
 7920-00-577-4745  
 7920-00-577-4746  
 Towel, Machinery Wiping (IB)  
 7920-00-260-1279  
 Towel, Paper (IB)  
 7920-00-823-9772  
 7920-00-823-9773

**CLASS 7930**

Cloth, Wiping (SH)  
 7930-LL-COO-3782  
 7930-LL-COO-2768  
 Mare Island Naval Shipyard, CA only  
 Cloth, Filter (SH)  
 7930-00-NSH-0001  
 Naval Supply Center, WA only  
 Detergent, General Purpose (IB)  
 7930-00-926-5280  
 7930-00-357-7386  
 7930-00-068-1669  
 7930-01-055-6122  
 7930-00-177-5243  
 7930-00-985-6945  
 7930-00-985-6946  
 7930-00-530-8067  
 7930-00-527-1207  
 7930-00-527-1237  
 7930-01-055-6121  
 7930-00-282-9700  
 7930-00-282-9699  
 7930-00-985-6911  
 Dishwashing Compounds, Hand (IB)  
 7930-00-880-4454  
 7930-01-055-6136  
 7930-00-899-9534  
 Glass Cleaner (IB)  
 7930-00-664-6910  
 Rinse Additive, Dishwashing (IB)  
 7930-00-619-9573  
 7930-00-619-9575

**CLASS 8010**

Aerosol Paint, Lacquer (IB)  
 8010-00-721-9742  
 8010-00-079-2754  
 8010-00-141-2952  
 8010-00-721-9743  
 8010-00-584-3148  
 8010-00-721-9479  
 8010-00-141-2950

8010-00-721-9744  
 8010-00-721-9745  
 8010-00-965-2389  
 8010-00-079-2756  
 8010-00-141-2951  
 8010-00-584-3149  
 8010-00-584-3154  
 8010-00-721-9483  
 8010-00-883-5329  
 8010-00-965-2390  
 8010-00-965-2392  
 8010-00-721-9746  
 8010-00-721-9747  
 8010-00-721-9748  
 8010-00-721-9753  
 8010-00-141-2958  
 8010-00-721-9749  
 8010-00-721-9750  
 8010-00-721-9754  
 8010-00-835-7215  
 8010-00-965-2391  
 8010-00-290-6983  
 8010-00-290-6984  
 8010-00-582-5382  
 8010-00-584-3150  
 8010-00-721-9487  
 8010-00-721-9751  
 8010-00-721-9752  
 8010-00-515-2487  
 8010-00-958-8147  
 8010-00-958-8148  
 8010-00-958-8151  
 Aerosol Paint, Primer Coating (IB)  
 8010-00-067-5434  
 8010-00-616-9181  
 Enamel (IB)  
 8010-00-067-5436  
 8010-00-067-5437  
 8010-00-079-2750  
 8010-00-079-2752  
 8010-01-203-7803  
 8010-01-203-7804  
 8010-00-079-3750  
 8010-00-079-3752  
 8010-00-079-3754  
 8010-00-079-3756  
 8010-00-079-3758  
 8010-00-079-3760  
 8010-00-079-3762  
 8010-00-079-3764  
 Enamel, Lacquer (IB)  
 8010-00-664-1914  
 8010-00-702-1053  
 8010-00-582-4743  
 8010-00-851-5525  
 8010-00-941-8712  
 8010-00-133-5901  
 8010-00-181-7791  
 8010-00-935-6609  
 8010-00-935-7064  
 8010-00-935-7075  
 8010-00-935-7079  
 8010-00-935-7085  
 8010-00-598-5936  
 8010-00-846-5117  
 8010-00-852-9033  
 8010-00-852-9034  
 8010-00-988-1458  
 8010-00-764-8434  
 8010-00-848-9272  
 8010-00-878-5761  
 8010-00-910-8154  
 8010-01-167-1139  
 8010-00-348-7715  
 8010-00-616-9143



8010-00-616-9144  
 8010-00-782-9356  
 8010-00-181-7371  
 8010-00-936-8366  
 8010-00-936-8367  
 8010-00-936-8370  
 Enamel, Primer Coating (IB)  
 8010-00-584-2426  
 8010-00-159-4518  
 8010-00-297-0593  
 8010-00-899-8825

**CLASS 8105**

Bag, Assembly, Crew Relief (IB)  
 8105-00-922-9469  
 Bag, Cloth (IB)  
 8105-00-282-8183  
 Bag, Cotton (IB)  
 8105-00-183-6981  
 8105-00-281-3924  
 8105-00-183-6982  
 8105-00-179-0089  
 8105-00-271-1511  
 8105-00-183-6985  
 8105-00-174-0836  
 8105-00-183-6989  
 8105-00-290-3360  
 Bag, Currency (IB)  
 8105-00-NIB-0006 Bureau of Engraving  
 and Printing, Washington, D.C. only  
 Bag, Evidence (IB)  
 8105-00-NIB-0001  
 8105-00-NIB-0002  
 8105-00-NIB-0003  
 8105-00-NIB-0004  
 8105-00-NIB-0005  
 Bag, Motion Sickness (IB)  
 8105-00-835-7212  
 Coin Bags (SH)  
 8105-00-NSH-0005  
 8105-00-NSH-0006  
 8105-00-NSH-0008  
 8105-00-NSH-0009  
 8105-00-NSH-0010  
 8105-00-NSH-0011  
 8105-00-NSH-0012

**CLASS 8110**

Tube, Mailing and Filing (SH)  
 8110-00-412-4410

**CLASS 8115**

Box, Set-Up, Mailing Dental (IB)  
 8115-00-511-5750  
 Box, Shipping (IB)  
 8115-00-787-2142  
 8115-00-787-2147  
 8115-00-101-7647  
 8115-00-101-7638  
 8115-00-787-2146  
 8115-00-787-2148  
 8115-01-019-4085  
 8115-01-019-4084  
 8115-01-057-1244  
 8115-01-057-1243  
 8115-01-057-1245  
 8115-00-192-1603  
 8115-00-192-1604  
 8115-00-192-1605  
 8115-01-093-3730  
 Box, Wood (SH)  
 8115-00-935-5887  
 8115-00-935-6525  
 8115-00-935-6526  
 8115-00-935-6527  
 8115-00-935-6528

8115-00-935-6530  
 8115-00-935-6532  
 8115-00-935-6531  
 Box, Wood, Nailed (SH)  
 8115-01-M00-0081  
 Pine Bluff Arsenal, AR only  
 Wood Container (SH)  
 8115-L1-599-7220  
 8115-L1-599-7320  
 8115-L1-599-8020  
 8115-L1-599-7920  
 8115-L1-465-1020  
 Robins Air Force Base, GA only

**CLASS 8135**

Block, Currency Packing (IB)  
 BEP Stock # L-1391  
 Chipboard (IB)  
 8135-00-290-0336  
 8135-00-782-3948  
 8135-00-782-3951  
 8135-00-579-8457

**CLASS 8140**

Pallet Assembly (SH)  
 8140-01-050-9789

**CLASS 8315**

Buckle, Belt (SH)  
 8315-00-598-6278  
 Sewing Kit (SH)  
 8315-01-090-5823  
 8315-01-222-0680  
 8315-01-222-0679

**CLASS 8340**

Cover, Tent (SH)  
 8340-00-262-2397  
 Line, Tent (SH)  
 8340-00-263-0254  
 8340-00-263-0255  
 8340-00-252-2268  
 8340-00-252-2271  
 8340-00-252-2273  
 8340-00-252-2291  
 8340-00-556-9789  
 8340-00-252-2280  
 8340-00-252-2282  
 8340-00-252-2297  
 8340-00-252-2293  
 Pin, Tent, Aluminum (SH)  
 8340-00-261-9749  
 Pin, Tent, Wood (SH)  
 8340-00-261-9750  
 8340-00-261-9751  
 8340-00-261-9752  
 Pole Section, Tent (SH)  
 8340-00-223-7849  
 Shelter Half, Tent, Incomplete (SH)  
 8340-00-577-4168  
 Shelter Half, Tent, Complete (SH)  
 8340-01-026-6096

**CLASS 8345**

Case, Flag, Interment (IB)  
 8345-00-782-3010  
 Flag, Signal (IB)  
 8345-00-935-0588  
 8345-00-935-0589  
 8345-00-935-0590  
 8345-00-935-0591  
 8345-00-935-0592  
 8345-00-935-0594  
 8345-00-935-0595  
 8345-00-935-0597  
 8345-00-935-0598

8345-00-935-0599  
 8345-00-935-0602  
 8345-00-935-0604  
 8345-00-935-0607  
 8345-00-935-0608  
 8345-00-935-0633  
 8345-00-935-1840  
 8345-00-935-0634  
 8345-00-935-0638  
 8345-00-935-0639  
 8345-00-935-0640  
 8345-00-926-9977  
 8345-00-926-9216  
 8345-00-926-9978  
 8345-00-926-6804  
 8345-00-926-6806  
 8345-00-926-9979  
 8345-00-926-6807  
 8345-00-926-6809  
 8345-00-926-9980  
 8345-00-926-9219  
 8345-00-935-0582  
 8345-00-926-9984  
 8345-00-926-6003  
 8345-00-926-9985  
 8345-00-935-0619  
 8345-00-935-1839  
 8345-00-935-0620  
 8345-00-935-0623  
 8345-00-935-0409  
 8345-00-935-0624  
 8345-00-935-0445  
 8345-00-926-6803  
 8345-00-935-0446  
 8345-00-926-6805  
 8345-00-935-0447  
 8345-00-926-9987  
 8345-00-935-0448  
 8345-00-926-6810  
 8345-00-926-9988  
 8345-00-935-0450  
 8345-00-935-0451  
 8345-00-935-0453  
 8345-00-926-6002  
 8345-00-926-6814  
 8345-00-935-0436  
 8345-00-935-0437  
 8345-00-935-0438  
 8345-00-935-0408  
 8345-00-935-0441  
 8345-00-935-0442  
 8345-00-935-0464  
 8345-00-935-0465  
 8345-00-935-0466  
 8345-00-935-0467  
 8345-00-935-0468  
 8345-00-935-0470  
 8345-00-935-0471  
 8345-00-935-0473  
 8345-00-935-0474  
 8345-00-935-0475  
 8345-00-935-0478  
 8345-00-935-0480  
 8345-00-935-0483  
 8345-00-935-0484  
 8345-00-935-0626  
 8345-00-935-1838  
 8345-00-935-0627  
 8345-00-935-0407  
 8345-00-935-0630  
 8345-00-935-0631  
 Flag, Signal, Vehicle, Danger Red (IB)  
 8345-00-260-2724  
 Pennant, Signal, and Special Flags (IB)  
 8345-00-935-0420



8345-00-935-0517  
 8345-00-935-4755  
 8345-00-935-1847  
 8345-00-935-3201  
 8345-00-935-4756  
 8345-00-935-0522  
 8345-00-914-6086  
 8345-00-935-4753  
 8345-00-935-4754  
 8345-00-935-0404  
 8345-00-935-0514  
 8345-00-825-1868  
 8345-00-935-0406  
 8345-00-935-0509  
 8345-00-926-5988  
 8345-00-935-0512  
 8345-00-921-4497  
 8345-00-935-3199  
 8345-00-825-1839  
 8345-00-935-0526  
 8345-00-914-6076  
 8345-00-914-6080  
 8345-00-914-6983  
 8345-00-935-0524  
 8345-00-926-5987  
 8345-00-926-5989  
 8345-00-935-0539  
 8345-00-926-5991  
 8345-00-825-1840  
 8345-00-935-0521  
 8345-00-914-6087  
 8345-00-926-6026  
 8345-00-935-0403  
 8345-00-935-0536  
 8345-00-926-9210  
 8345-00-926-9213  
 8345-00-926-6028  
 8345-00-935-0508  
 8345-00-935-0519  
 8345-00-935-0415  
 8345-00-914-6085  
 8345-00-926-9215  
 8345-00-935-0411  
 8345-00-926-9212  
 8345-00-914-7411  
 8345-00-914-6079  
 8345-00-914-6082  
 8345-00-935-0523  
 8345-00-935-0417  
 8345-00-926-5990  
 8345-00-935-0421  
 8345-00-926-9207  
 8345-00-935-0552  
 8345-00-935-0520  
 8345-00-935-0492  
 8345-00-935-0493  
 8345-00-926-9214  
 8345-00-935-0513  
 8345-00-935-0490  
 8345-00-935-0495  
 8345-00-926-9208  
 8345-00-935-0518  
 8345-00-935-0511  
 8345-00-914-6084  
 8345-00-935-0405  
 8345-00-935-0410  
 8345-00-935-0525  
 8345-00-914-6075  
 8345-00-914-6077  
 8345-00-914-6081  
 8345-00-935-0419  
 8345-00-935-0416  
 8345-00-935-0537  
 8345-00-935-0538  
 8345-00-935-0540  
 8345-00-935-0541

8345-00-926-9211  
 8345-00-935-0499  
 8345-00-935-0500  
 8345-00-935-0501  
 8345-00-825-1818  
 8345-00-935-0497  
 8345-00-935-0504  
 8345-00-935-1841  
 8345-00-935-0418  
 8345-00-825-1819  
 8345-00-926-1551  
 8345-00-935-0503  
 8345-00-935-0534  
 8345-00-935-1843  
 8345-00-926-1548  
 8345-00-926-1549  
 8345-00-926-1552  
 Streamer, Warning, Aircraft (IB)  
 8345-00-863-9170

**CLASS 8405**

Cover, Service Cap (IB)  
 8405-01-046-8544  
 8405-01-046-8545  
 Liner, Poncho, Wet Weather (IB)  
 8405-00-889-3883  
 Poncho, Wet Weather (SH)  
 8405-01-100-0976

**CLASS 8410**

Skirt, Women's (SH)  
 8410-01-187-1415  
 8410-01-187-1416  
 8410-01-187-1417  
 8410-01-187-1418  
 8410-01-187-1419  
 8410-01-187-1420  
 8410-01-187-1421  
 8410-01-187-1422  
 8410-01-187-1423  
 8410-01-187-1424  
 8410-01-187-1425  
 8410-01-187-1426  
 8410-01-187-1427  
 8410-01-187-1428  
 8410-01-187-1429  
 8410-01-187-1430  
 8410-01-187-1431  
 8410-01-187-1432  
 8410-01-187-1433  
 8410-01-187-1434  
 8410-01-187-1435  
 8410-01-187-1436  
 8410-01-187-1437  
 8410-01-187-1438  
 8410-01-187-1439  
 8410-01-187-1440  
 8410-01-187-1441

**CLASS 8415**

Apron, Construction Worker's (IB)  
 8415-00-205-3895  
 8415-00-257-4290  
 Apron, Food Handler's (IB)  
 8415-00-255-8577  
 8415-00-634-0205  
 8415-00-051-1173  
 8415-01-045-0587  
 Apron, Food Handler's (SH)  
 8415-00-899-3028  
 Apron, Impermeable (SH)  
 8415-00-082-6108  
 Apron, Laboratory (SH)  
 8415-00-634-5023  
 Band, Helmet, Camouflage (IB)  
 8415-01-110-9981

Cap, Food Handler's (IB)  
 8415-00-234-7677  
 8415-00-234-7678  
 8415-00-234-7679  
 Cover, Helmet (IB)  
 8415-00-105-0605  
 Cover, Helmet, Camouflage Pattern (IB)  
 8415-01-092-7514  
 8415-01-092-7515  
 Cover, Helmet, Chemical Protective (IB)  
 8415-01-111-9028 (75,000 each annually)  
 Cover, Helmet, Desert Camouflage (SH)  
 8415-01-103-1349  
 8415-01-103-1350  
 Coveralls, Disposable (SH)  
 8415-00-601-0792  
 8415-00-601-0793  
 8415-00-601-0794  
 8415-00-601-0797  
 8415-00-601-0801  
 8415-00-601-0802  
 Hood, Anti-Flash (SH)  
 8415-00-275-3159  
 Hood, Spray Painter's Protective (SH)  
 8415-00-NSH-0001  
 Pearl Harbor Naval Shipyard, HI only  
 Liner, Coat, Cold Weather (IB)  
 8415-00-782-2886  
 8415-00-782-2887  
 8415-00-782-2888  
 8415-00-782-2889  
 8415-00-782-2890  
 8415-01-062-0679 All Gov't requirements  
 except for Memphis Depot, TN  
 Liner, Trousers, Cold Weather (IB)  
 8415-01-180-0370  
 8415-01-180-0371  
 8415-01-180-0372  
 8415-01-180-0373  
 8415-01-180-0374  
 8415-01-180-0375  
 8415-01-180-0376  
 8415-01-180-0377  
 Mask, Extreme Cold Weather (SH)  
 8415-01-006-3468  
 Pad, Helmet, Flight Deck Crewman's (IB)  
 8415-00-178-6830  
 8415-00-178-6831  
 Socks, Extreme Cold Weather (SH)  
 8415-00-177-7992  
 8415-00-177-7993  
 8415-00-177-7994  
 8415-01-057-3503  
 Traffic Safety Clothing (See Class 8465 also)  
 (IB)  
 8415-00-177-4978  
 8415-00-177-4974

**CLASS 8430**

Footwear Cover (IB)  
 8430-01-196-8394  
 8430-00-580-1205  
 8430-00-580-1206  
 8430-00-591-1359  
 Slide Fastener Unit, Laced Boot (IB)  
 8430-00-465-1888  
 8430-00-465-1889  
 8430-00-465-1890

**CLASS 8440**

Belt, Coat (IB)  
 8440-00-261-4965  
 8440-00-261-4966  
 Belt, Trousers (IB)  
 8440-00-270-0535



8440-00-412-2309  
 8440-00-573-1666  
 8440-00-270-0536  
 8440-00-412-2312  
 8440-00-573-1765  
 8440-00-270-0537  
 8440-00-412-2314  
 8440-00-573-3727  
 8440-00-290-0567  
 8440-01-052-9738  
 8440-00-290-0568  
 8440-01-052-9739  
 8440-00-269-5311  
 8440-01-052-9740  
 8440-00-634-5632  
 8440-00-753-6363  
 8440-00-577-4177  
 8440-00-753-6364  
 8440-00-577-4178  
 8440-00-753-6365  
 8440-00-270-0541  
 8440-00-412-2326  
 8440-00-270-0542  
 8440-00-412-2341  
 8440-00-270-0543  
 8440-00-412-2342  
 8440-01-167-7246  
 8440-01-175-7851  
 8440-01-175-7853  
 8440-01-175-7850  
 8440-01-204-2610  
 8440-01-175-7854  
 8440-01-175-7852  
 8440-01-181-4410  
 8440-01-181-4411  
 8440-01-204-2610  
 Handkerchief, Man's (SH)  
 8440-00-261-4246  
 Neckkerchief (IB)  
 8440-01-198-5175  
 Neckkerchief, Camouflage, Desert (IB)  
 8440-01-148-4549  
 Necktie (IB)  
 8440-01-156-0373  
 8440-01-171-7571  
 8440-01-190-0066  
 8440-00-555-7194  
 Scarf, Man's, Wool (SH)  
 8440-01-005-2558  
 8440-00-160-6843  
 8440-00-823-7520  
 Suspenders, Trousers (IB)  
 8440-00-221-0852

**CLASS 8445**

Belt, Trousers, Cotton (IB)  
 8445-01-068-8339  
 8445-01-068-8340  
 8445-01-075-0013  
 8445-01-075-0014  
 8445-01-075-0015  
 Scarf, Neckwear (IB)  
 8445-00-549-5363

**CLASS 8455**

Holder, Identification (IB)  
 8455-00-898-9730  
 Medal (SH)  
 8455-00-261-4501  
 Medal Sets (SH)  
 8455-00-082-5528  
 8455-00-269-5761  
 8455-00-269-5783  
 8455-00-269-5763  
 8455-00-269-5764  
 8455-00-269-5782

**Scarf, Branch of Service (IB)**

8455-00-916-8398  
 8455-00-405-2294  
 8455-00-985-7336  
 8455-01-078-0745

**CLASS 8460**

Briefcase (SH)  
 8460-01-193-9769  
 Cover, Map (SH)  
 8460-00-287-2137  
 8460-00-287-2140  
 Kit Bag, Flyer's (IB)  
 8460-00-606-8366

**CLASS 8465**

Bag, Soiled Clothes (IB)  
 8465-00-122-0362  
 8465-00-122-0363  
 8465-00-122-0364  
 Bag, Barrack (IB)  
 8465-00-530-3692  
 Bag, Carrying (IB)  
 8465-01-216-6259  
 Bag, Laundry (SH)  
 8465-00-616-9576  
 Bag, Laundry, Self-Closing, Ropeless (SH)  
 8465-00-656-0818  
 Bag, Personal Effects (SH)  
 8465-00-174-0808  
 Bag, Sleeping, Firefighter's (IB)  
 8465-00-081-0798  
 Bag, Soiled Clothes (SH)  
 8465-00-122-3869  
 Bag, Soiled Clothes, Submarine (IB)  
 8465-00-762-7671  
 Belt, Individual, Equipment, Nylon, LC-1 (IB)  
 8465-00-001-6487  
 8465-00-001-6488  
 8465-01-120-0674  
 8465-01-120-0675  
 Belt, M.P. (IB)  
 8465-00-527-8843  
 Binding, Snowshoe, Universal (IB)  
 8465-00-965-2175  
 Canteen, Water, Plastic (IB)  
 8465-01-115-0026  
 Carrier, Intrenching Tool (IB)  
 8465-00-001-6474  
 Case, Field, First Aid (IB)  
 8465-00-935-6814  
 Case, Maintenance Equipment, Small Arms (IB)  
 8465-00-781-9564  
 Clipboard, Pilot's (SH)  
 8465-01-012-9174  
 Clothes Stop (IB)  
 8465-00-377-5701  
 Cover, Field Pack, Camouflage (IB)  
 8465-01-103-0659  
 Cover, Field-Pack, Camouflage, White (SH)  
 8465-00-001-6478  
 Cover, Water, Canteen (IB)  
 8465-00-118-4958  
 Fieldpack, Canvas (SH)  
 8465-00-205-3493  
 Lanyard, Pistol (SH)  
 8465-00-262-5237  
 8465-00-965-1705  
 Mat, Sleeping, Cold Weather (SH)  
 8465-01-109-3369  
 Necklace, Personnel, Identification (SH)  
 8465-00-261-6629  
 Pack, Personal Gear (SH)  
 8465-01-141-2321  
 Pocket, Ammunition Magazine (IB)

8465-00-782-2239  
 8465-00-261-4983  
 Protector, Trousers, Pistol Holster (IB)  
 8465-00-682-6741  
 Sheath, Ax (SH)  
 8465-01-110-2078  
 Sheath, Brush Hook (Bush) (SH)  
 8465-01-136-4720  
 Sheath, McLeod Tool (SH)  
 8465-01-136-4718  
 Sheath, Pulaski Tool (SH)  
 8465-01-067-9999  
 Sheath, Shovel, Hand (SH)  
 8465-01-136-4719  
 Strap, Shoulder, Quick Release, Right Hand (IB)  
 8465-01-078-9282  
 Strap, Waist, with Pad, LC-2 (IB)  
 8465-01-075-8164  
 Strap, Webbing, Cargo, Tie-Down (IB)  
 8465-00-001-6477  
 Strap, Webbing, Frame Attaching (IB)  
 8465-01-151-2891  
 Strap, Webbing, Waist, LC-1 (IB)  
 8465-00-269-0481  
 Strap, Shoulder, Quick Release, Left Hand (IB)  
 8465-00-269-0482  
 Suspenders, Individual Equipment Belt (IB)  
 8465-00-001-6471  
 Traffic-Safety Clothing (IB)  
 8465-00-177-4975  
 8465-00-177-4976  
 8465-00-177-4977  
 Water Bag, Nylon Duck (SH)  
 8465-01-185-5511  
 Whistle, Ball, Plastic (IB)  
 8465-00-254-8803

**CLASS 8470**

Headband, Ground Troop, Helmet Liner (IB)  
 8465-00-153-6671  
 Mechanicsburg, PA and Richmond, VA only  
 Headband, Ground-Troop/Parachutists' Helmet (IB)  
 8470-01-092-8493  
 8470-01-092-8492  
 Neckband, G.T., Helmet Liner (IB)  
 8470-00-753-6166  
 Pad, Parachutists' Helmet (IB)  
 8470-01-092-8494  
 Strap, Chin, Ground Troops'/Parachutists' Helmet (IB)  
 8470-01-092-7534  
 Strap, Chin, Parachutist Steel Helmet (IB)  
 8470-00-032-2737  
 Strap, Retention, Parachutists' Helmet (IB)  
 8470-01-092-7524  
 Strap, Soldier's Steel Helmet M-1 (IB)  
 8470-00-030-8003  
 Suspension Assembly, Lines, Helmet (IB)  
 8470-00-880-8814  
 Suspension-Assembly, Ground Troops'/Parachutist (IB)  
 8470-01-092-7516  
 8470-01-092-7517  
 8470-01-092-7518  
 8470-01-092-7519

**CLASS 8520**

Soap, Toilet (IB)  
 8520-00-228-0598  
 8520-01-058-7463  
 8520-00-141-2519



**CLASS 8915**

Potatoes, White, Fresh (SH)  
8915-00-456-6111 Whole  
8915-00-228-1945 Diced  
DLA in North Carolina and South  
Carolina only

**CLASS 8970**

Food Packet, Survival, Aircraft, Life Raft,  
Indiv. (SH)  
8970-01-028-9406

**CLASS 9905**

Holder, Card-Label (IB)  
9905-00-866-0334  
Plate, Marking, Blank (SH)  
9905-00-473-6336  
Sign-Kit, Vehicle (SH)  
9905-00-565-6267  
Tag, Key (SH)  
9905-00-245-7826  
Tag, Marker (SH)  
9905-00-537-8954  
9905-00-537-8955  
9905-00-537-8956  
9905-00-537-8957  
Tree Shade (SH)  
9905-00-NSH-0001 8" X 12"  
9905-00-NSH-0153 8" X 16"  
BLM and U.S. Forest Service, Washington  
and Oregon only

**CLASS 9920**

Ash Receiver, Tobacco (IB)  
9920-00-682-8757  
Cleaner, Tobacco Pipe (SH)  
9920-00-292-9946

**U.S. Postal Service Items**

Divider, Separation (SH)  
P.S. #01037-A  
P.S. #01037-B  
Lead Seal with Cord Attachment (SH)  
P.S. #0815  
Marker, I.D., Plastic (SH)  
P.S. #01036  
P.S. #01036-A  
P.S. #01036-B  
P.S. #01036-C  
P.S. #01036-D  
P.S. #01036-E  
P.S. #01036-F  
Pallet, P.S., Material Handling (SH)  
3990-00-NSH-0008  
Postal Service, Western Area Supply  
Center, only  
Pocket, Imitation Leather (SH)  
P.S. #D-1200-G  
Safety Guard (SH)  
P.S. #1075-B  
Seal, Metal Band (SH)  
P.S. #0816-A  
P.S. #0816-B  
Seat Assembly, Complete (SH)  
P.S. #054-A  
Seat Cover (SH)  
P.S. #054-B  
Strap, Mail Tray (IB)  
P.S. #01067  
Strap, Tie, Mail Carrier's, with buckle (IB)  
8465-D-1216D  
8465-D-1216E  
8465-D-1216F

**Military Resale Commodities**

Procedures for ordering military resale  
commodities are contained in § 51-5.6,  
Code of Federal Regulations, Title 41.

Item No.	Item name
060.....	Roller ball pen, red (IB).
061.....	Roller ball pen, blue (IB).
062.....	Roller ball pen, black (IB).
063.....	Retractable pen, black (IB).
064.....	Retractable pen, blue (IB).
065.....	Ultra fine tip marker, red (IB).
066.....	Ultra fine tip marker, blue (IB).
067.....	Ultra fine tip marker, black (IB).
068.....	Pencil, mechanical, 0.5 mm lead (IB).
204.....	Cleaner, tobacco, pipe (SH).
500.....	Room air freshener (IB).
501.....	Deodorizer, toilet bowl (IB).
503.....	Bowl deodorizer (IB).
504.....	Bowl deodorizer (IB).
506.....	Air deodorizer, push-up type, floral spring (IB).
507.....	Air deodorizer, push-up type, lemon (IB).
510.....	Cleaner, all purpose (IB).
519.....	Fabric softener sheets, reusable, 8 1/2 x 4" (60 count) (IB).
520.....	Fabric softener sheets, reusable, 8 1/2 x 4" (40 count) (IB).
521.....	Candle, air freshening, fruit (IB).
522.....	Candle, air freshening, holiday (IB).
523.....	Candle, air freshening, floral (IB).
524.....	Candle, air freshening, berry (IB).
525.....	Candle, air freshening, forest (IB).
526.....	Candle, air freshening, carnation (IB).
527.....	Candle, air freshening, festival (IB).
528.....	Candle, air freshening, herbal (IB).
529.....	Candle, air freshening, assorted scents with hold-ers (IB).
541.....	Scrubber, bathroom, with handle (IB).
542.....	Scrubber, kitchen, with handle (IB).
543.....	Scrubber, grill & garage, with handle (IB).
544.....	Scrubber, nylon net over polyurethane pad (IB).
545.....	Scrubber, nylon, rectangular (IB).
555.....	Scrubber, kitchen, 4 1/2 x 3 1/2 x 1 1/2" (IB).
556.....	Scrubber, bathroom, 4 1/2 x 3 1/2 x 1 1/2" (IB).
557.....	Scrubber, general household, 6 1/2 x 3 1/2 x 1" (IB).
563.....	Scrubber, plastic, for teflon (IB).
564.....	Scrubber, stainless steel (IB).
568.....	Board, ironing, table top (IB).
570.....	Clothespins, plastic (IB).
574.....	Clotholine, plastic, rayon reinforced, 100-ft. (IB).
575.....	Sponge, cellulose, 5 1/2 x 3 1/2 x 1 1/2" (IB).
576.....	Sponge, cellulose, 7 1/2 x 4 x 1 1/2" (IB).
577.....	Sponge, cellulose, 5 1/2 x 3 1/2 x 1" (IB).
578.....	Sponge, cellulose, 5 1/2 x 3 1/2 x 1" (IB).
581.....	Flatware, assorted, PG of 24 (IB).
583.....	Flatware, forks, PG of 24 (IB).
584.....	Flatware, spoons, PG of 24 (IB).
593.....	Sponge, bath, circular (IB).
594.....	Swatter, fly, plastic (IB).
596.....	Cutlery set, plastic, heavy duty (8 ea knives, forks, spoons) (IB).
597.....	Knives, plastic, heavy duty (IB).
598.....	Forks, plastic, heavy duty (IB).
599.....	Spoons, plastic, heavy duty (IB).
721.....	Paint roller cover, economy, 9" (IB).
723.....	Paint roller cover, all purpose, 9" (IB).
727.....	Paint roller cover, high pile, 9" (IB).
730.....	Paint roller cover, for rough surfaces, 9" (IB).
754.....	Pillow, Standard, 20" x 26" (IB).
755.....	Pillow, Queen, 20" x 30" (IB).
756.....	Pillow, King, 20" x 36" (IB).
901.....	Broom, mixed fiber (IB).
902.....	Broom, push, indoor/outdoor, 54" handle (IB).
903.....	Broom, parlor, corn, medium weight (IB).
904.....	Broom, corn, plastic cap (IB).
905.....	Broom, plastic filament, flagged ends (IB).
907.....	Broom, plastic filament, angle cut (IB).
908.....	Broom, plastic filament, angle tilt (IB).
909.....	Broom, whisk, corn (IB).
912.....	Brush, lint, plastic filament (IB).
914.....	Brush, barbecue, with scraper (IB).
915.....	Brush, counter, plastic (IB).
916.....	Brush, sanitary, nylon filament (IB).
918.....	Brush, scrub, household (IB).
919.....	Brush, scrub, plastic block, vinyl filament (IB).
920.....	Handle, mop, spring lever, for wet mopheads (IB).
921.....	Mop, anglematic (IB).
922.....	Applicator, wax, foam block (IB).
923.....	Mop, automatic, block sponge (IB).
924.....	Mop, block sponge, with scrub strip brush (IB).
925.....	Mop, dusting, nylon (IB).
926.....	Mop, stick, orlon/rayon yarn, wet (IB).

Item No.	Item name
927.....	Mop, stick, rayon yarn, wet (IB).
928.....	Mop, stick, cotton yarn, wet (IB).
931.....	Refill, for #921 (IB).
933.....	Refill, mop, automatic, block sponge, for 923 (IB).
934.....	Refill, mop, block sponge, for 924 (IB).
936.....	Mophead, orlon/rayon yarn, wet (IB).
937.....	Mophead, cotton yarn, wet (IB).
940.....	Towel, heritage design (IB).
941.....	Cloth, dish, knitted cotton (IB).
942.....	Dish cloth, heritage design (IB).
943.....	Towel, modern design (IB).
944.....	Dish cloth, modern design (IB).
945.....	Towel, kitchen, cotton (IB).
946.....	Potholder, quilted, cotton (IB).
947.....	Oven mitt, modern design (IB).
948.....	Potholder, modern design (IB).
949.....	Mitt, oven, quilted, cotton (IB).
950.....	Mop, dish and bottle, wood handle (IB).
955.....	Brush, vegetable/utility, plastic filament (IB).
956.....	Brush, bottle, nylon filament (IB).
957.....	Brush, dish and pan, nylon filament (IB).
959.....	Brush, pastry and basting (IB).
962.....	Cover, ironing board, silicone and pad, poly foam (IB).
964.....	Cover, ironing board, silicone, double coated (IB).
965.....	Cover, ironing board, color coated (IB).
970.....	Bag, washing machine, nylon with zipper (IB).
971.....	Towel dish, traditional design (IB).
972.....	Dish cloth, traditional design (IB).
973.....	Towel, contemporary design (IB).
974.....	Dish cloth, contemporary design (IB).
975.....	Oven mitt, traditional design (IB).
977.....	Oven mitt, contemporary design (IB).
978.....	Pot holder, contemporary design (IB).
979.....	Pot holder, traditional design (IB).
980.....	Cloth, all purpose, cotton (IB).
981.....	Towel, fashion design (IB).
982.....	Potholder, fashion design (IB).
983.....	Cloth, dusting (IB).
986.....	Cloth, wash, face (IB).
995.....	Dustpan, plastic (IB).

**Services****ADMINISTRATIVE SERVICES****Department of Commerce:**

Herbert Hoover Building, 14th &  
Constitution Avenue, NW., Washington,  
DC (SH)

**Department of Defense:**

DCASR Building B-95, 805 Walker Street,  
Marietta, Georgia (SH)

**Department of Transportation:**

FAA Regional Office, East Point, Field  
Facilities and Accounting Office,  
Hapeville, Georgia (SH)

**Environmental Protection Agency:**

1860 Lincoln Street, Denver, Colorado (SH)  
Marfair/Fairchild Building, Washington,  
DC (SH)

Waterside Mall Complex, Washington, DC  
(SH)

345 Courtland Street, NE., Atlanta, Georgia  
(SH)

General Services Branch, 230 South  
Dearborn Street, Chicago, Illinois (SH)  
Beltsville Research Laboratory, Beltsville,  
Maryland (SH)

6100 Executive Boulevard, Rockville,  
Maryland (SH)

9100 Brookville Road, Silver Spring,  
Maryland (SH)

26 Federal Plaza, New York, New York  
(SH)

6th and Walnut Street, Philadelphia,  
Pennsylvania (SH)

Crystal Mall Complex, Arlington, Virginia  
(SH)

**ASSEMBLY****Department of Defense:**



Belt, Trousers (IB)  
 Food Packet, Assault Ration (8970-01-225-6504) (SH)  
 Food Packet, Survival, Abandon Ship (8970-00-299-1365) (IB)  
 Food Packet, Survival, General-Purpose, Individual (8970-00-082-5665) (IB)  
 General Services Administration:  
 Living Kit, Basic and Supplemental (SH)

#### **BURSTING AND PACKAGING OF COMMEMORATIVE STAMPS**

U.S. Postal Service:  
 Washington, DC (SH)

#### **CAGE CLEANING**

Department of Health and Human Services:  
 Food and Drug Administration, Federal Office Building #8, 200 C Street, SW., Washington, DC (SH)

#### **CARDBOARD AND PAPER SCRAP RECOVERY**

Department of Army:  
 New Cumberland Army Depot, Pennsylvania (SH)  
 Department of Energy:  
 Bonneville Power Administration, Portland, Oregon (SH)

#### **CARPET CLEANING**

General Services Administration:  
 Portland, Oregon, plus 10-mile radius (SH)

#### **CARWASH**

Department of Interior:  
 Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon (SH)

#### **CATERING SERVICE**

Department of Air Force:  
 Military Entrance Processing Station, Jackson, Mississippi (SH)  
 Department of Army:  
 New Cumberland Army Depot, Military Entrance Processing Station, Building 521, New Cumberland, Pennsylvania (SH)

#### **COMMISSARY SHELF STOCKING**

Department of Navy:  
 Naval Air Station, Alameda, California (SH)  
 Naval Air Station, Long Beach, California (SH)  
 Naval Air Station, Miramar, San Diego, California (SH)  
 Naval Air Station, North Island, San Diego, California (SH)  
 Naval Station, San Diego, California (SH)  
 Naval Training Center, San Diego, California (SH)  
 Mare Island Naval Shipyard, Vallejo, California (SH)  
 Commissary Branch Store, Mayport, Florida (SH)  
 Naval Air Station, Pensacola, Florida (SH)  
 Naval Air Station, Barbers Point, Oahu, Hawaii (SH)  
 Naval Base, Pearl Harbor, Hawaii (SH)  
 Naval Training Center, Great Lakes, Illinois (SH)  
 Naval Air Station, Brunswick, Maine (SH)  
 Naval Air Station, Patuxent River, Maryland (SH)

Naval Construction Battalion Center, Gulfport, Mississippi (SH)  
 Naval Administrative Unit, Scotia, New York (SH)  
 Naval Station, Roosevelt Roads, Puerto Rico (SH)  
 Naval Education Training Center, Newport, Rhode Island (SH)  
 Naval Station and Naval Weapons Station, Charleston, South Carolina (SH)  
 Branch Commissary Store, Little Creek, Naval Amphibious Base, Building 3324, Norfolk, Virginia (SH)  
 Naval Station, Norfolk, Virginia (SH)  
 Branch Commissary Store, Building 350, Norfolk Naval Shipyard, Portsmouth, Virginia (SH)  
 Naval Air Station, Oceana, Virginia Beach, Virginia (SH)  
 Naval Submarine Base, Bangor, Washington (SH)  
 Naval Air Station, Whidbey Island, Oak Harbor, Washington (SH)  
 Naval Support Activity, Sand Point, Seattle, Washington (SH)

#### **COMMISSARY SHELF STOCKING AND CUSTODIAL SERVICE**

Department of Air Force:  
 Gunter Air Force Station, Alabama (SH)  
 Maxwell Air Force Base, Alabama (SH)  
 Eielson Air Force Base, Alaska (SH)  
 Elmendorf Air Force Base, Alaska (SH)  
 Little Rock Air Force Base, Arkansas (SH)  
 George Air Force Base, California (SH)  
 Lowry Air Force Base, Colorado (SH)  
 Homestead Air Force Base, Florida (SH)  
 Hickam Air Force Base, Hawaii (SH)  
 Mountain Home Air Force Base, Idaho (SH)  
 Scott Air Force Base, Illinois (SH)  
 Columbus Air Force Base, Mississippi (SH)  
 Nellis Air Force Base, Nevada (SH)  
 Griffiss Air Force Base, New York (SH)  
 Minot Air Force Base, North Dakota (SH)  
 Altus Air Force Base, Oklahoma (SH)  
 Shaw Air Force Base, South Carolina (SH)  
 Goodfellow Air Force Base, Texas (SH)  
 Lackland Air Force Base, Texas (SH)  
 Francis E. Warren Air Force Base, Wyoming (SH)

Department of Army:  
 Fort Benjamin Harrison, Indiana (SH)

Department of Navy:  
 Branch Commissary Store, Naval Support Activity, New Orleans, Louisiana (SH)

#### **COMMISSARY WAREHOUSING SERVICE**

Department of Air Force:  
 Columbus Air Force Base, Mississippi (SH)

#### **COMMISSARY SHELF STOCKING/CUSTODIAL/WAREHOUSING**

Department of Air Force:  
 Robins Air Force Base, Georgia (SH)  
 McConnell Air Force Base, Kansas (SH)  
 Cannon Air Force Base, New Mexico (SH)  
 Sheppard Air Force Base, Texas (SH)  
 Hill Air Force Base, Utah (SH)

#### **COMPLETION OF FORM DD 1574 AND DD 1574-1**

Department of Air Force:  
 Robins Air Force Base, Georgia (SH)

#### **CURRENCY PACKAGING**

Department of Treasury:

Bureau of Engraving and Printing,  
 Washington, DC (SH)

#### **DOCUMENT DESTRUCTION**

Department of Treasury:  
 Internal Revenue Service, Cincinnati Service Center, 200 West Fourth Street, Covington, Kentucky (SH)

#### **DRILL SHARPENING**

Department of Navy:  
 Naval Supply Center, San Diego, California (SH)

#### **ELEVATOR OPERATION SERVICE**

General Services Administration:  
 Wyoming Valley Veterans Building, 19 North Main Street, Wilkes-Barre, Pennsylvania (SH)

#### **FOOD SERVICE**

Department of Air Force:  
 Sheppard Air Force Base, Texas (SH)

#### **FOOD SERVICE ATTENDANT**

Department of Air Force:  
 914th Tactical Airlift Group (AFRFES), Niagara Falls International Airport, Niagara Falls, New York (SH)  
 Department of Army:  
 Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia (SH)  
 Seneca Army Depot, Romulus, New York (SH)

#### **FORMS/PUBLICATION STORAGE AND DISTRIBUTION**

Department of Treasury:  
 Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC (SH)

#### **FURNITURE REHABILITATION**

General Services Administration:  
 Altus Air Force Base, Oklahoma (SH)  
 Lawton, Oklahoma including Fort Sill (SH)  
 Oklahoma City, Oklahoma, plus 25-mile radius, including FAA and Tinker Air Force Base (SH)  
 San Antonio, Texas, plus 40-mile radius (SH)  
 Wichita Falls, Texas, including Sheppard Air Force Base (SH)  
 Spokane, Washington, plus 30-mile radius (SH)

#### **FURNITURE REHABILITATION (METAL)**

Department of Navy:  
 Naval Ordnance Station, Louisville, Kentucky (IB)

#### **GROUND MAINTENANCE**

Department of Air Force:  
 26 Buildings, 1 Area, and 4 Athletic Fields, Edwards Air Force Base, California (SH)  
 Department of Army:  
 5 Buildings and 6 Fields, Fort Ord, California (SH)  
 Lewiston Levee Parkway, Nez Perce County, Idaho (SH)  
 Bonneville Lock and Dam, Bonneville, Oregon (SH)



U.S. Army Reserve Facility-Portland (South), Sears Hall, 2731 SW Multnomah Boulevard, Portland, Oregon (SH)

U.S. Army Reserve Facility-Portland (West), Shraff Hall, 8801 N. Chautauqua Boulevard, Portland, Oregon (SH)

Asotin Recreation Area, Asotin County, Washington (SH)

Cemetery Grounds (includes opening and closing of graves), Fort Lawton, Washington (SH)

U.S. Army Reserve Facility, Building 4306, Grant County Airport, Moses Lake, Washington (SH)

U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington (SH)

U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington (SH)

Vancouver Army Barracks, Vancouver, Washington (SH)

Department of Commerce:

National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington (SH)

Department of Energy:

Morgantown Energy Technology Center, Morgantown, West Virginia (SH)

Department of Interior:

Wheeler National Wildlife Refuge, Decatur, Alabama (SH)

Ash Woods, French Drive & Independence Avenue to 17th Street & Independence Avenue, Washington, D.C. (SH)

National Park Service, LBJ Memorial Grove, Constitution Gardens, Washington, D.C. (SH)

Department of Navy:

Marine Corps Air Station, Yuma, Arizona (SH)

Naval Weapons Center, China Lake, California (SH)

Mare Island Naval Shipyard, Combat Systems Technical School Command, Vallejo, California (SH)

Naval Air Station Miramar, 15 Parcel Areas, San Diego, California (SH)

Naval Postgraduate School, Monterey, California (SH)

U.S. Naval Security Activity, Skaggs Island, Sonoma, California (SH)

Naval Ordnance Station, Nonindustrial Area, Indian Head, Maryland (SH)

Naval Weapons Station, 2 Parks, 5 Buildings, and 7 Areas, Yorktown, Virginia (SH)

Naval Air Station, Whidbey Island, Washington (SH)

Department of Transportation:

Federal Aviation Administration, AFSFO, 55 Midway Avenue, Daytona Beach, Florida (SH)

Federal Aviation Administration, Airway Facilities Sector, 1100 South Service Road, Atlanta, Georgia (SH)

Federal Aviation Administration, Air Route Traffic Control Center, Ronkonkoma, New York (SH)

Federal Aviation Administration, New York TRACON Facility, Westbury New York (SH)

Federal Aviation Administration, Air Route Traffic Control Center, Leesburg, Virginia (SH)

Department of Treasury:

U.S. Secret Service, Special Training Building and Complex, Beltsville, Maryland (SH)

General Services Administration:

Federal Center, 620 Central Avenue, Alameda, California (SH)

Federal Building and U.S. Post Office, 11000 Wilshire Boulevard, Los Angeles, California (SH)

U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California (SH)

Federal Building, 2800 Cottage Way, Sacramento, California (SH)

U.S. Court of Appeals, 7th and Mission Streets, San Francisco, California (SH)

Social Security Administration Complex, 6401 Security Boulevard, Baltimore, Maryland (SH)

Social Security Administration Computer Center, 6201 Security Boulevard, Baltimore, Maryland (SH)

Internal Revenue Service Center, 310 Lowell Street, Andover, Massachusetts (SH)

Federal Building, 1002 NE. Holladay, Portland, Oregon (SH)

Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)

U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)

Wyatt Federal Building, 1220 SW. Third, Portland, Oregon (SH)

Federal Building, 500 West 12th, Vancouver, Washington (SH)

National Aeronautics and Space Administration:

Goddard Space Flight Center, Greenbelt, Maryland (SH)

U.S. Postal Service:

1088 Nandino Boulevard, Lexington, Kentucky (SH)

#### JANITORIAL/CUSTODIAL

Department of Agriculture:

Forest Service, Coeur d'Alene Nursery, 3600 Nursery Road, Coeur d'Alene, Idaho (SH)

Forest Service, Fernan Ranger Station, 2502 E. Sherman Avenue, Coeur d'Alene, Idaho (SH)

Wallace Ranger District of the Panhandle National Forest, Coeur d'Alene, Idaho (SH)

National Finance Center, NASA Facility, 13800 Old Gentilly Road, Building 350, New Orleans, Louisiana (SH)

Umpqua National Forest-Radio Shop, 2691 NE. Diamond Lake Boulevard, Roseburg, Oregon (SH)

Umpqua National Forest, Supervisor's Office, 2900 NW. Stewart Parkway, Roseburg, Oregon (SH)

Department of Air Force:

Buildings 46, 228 and 963, Robins Air Force Base, Georgia (SH)

Officer's Open Mess (Building 542) and NCO Open Mess (Building 956), Robins Air Force Base, Georgia (SH)

5 Buildings, Bergstrom Air Force Base, Texas (SH)

Ellsworth Air Force Base, South Dakota (SH)

Fairchild Air Force Base, Washington (excluding USAF Hospital, Air National Guard and Commissary) (SH)

Griffiss Air Force Base, New York (SH)

Building 1293, Hill Air Force Base, Utah (SH)

Department of Army:

Pueblo Army Depot Activity, Pueblo, Colorado (SH)

National Defense University, Health Fitness, Fort McNair, Washington, DC (SH)

Pentagon Officers Athletic Center, The Pentagon, Washington, DC (SH)

U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)

U.S. Army Reserve Center, Belmont & Manley Streets, Brockton, Massachusetts (SH)

U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)

U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)

U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)

U.S. Army Reserve Center, Fort Snelling, Minnesota (SH)

U.S. Readiness Group, Fort Snelling, Minnesota (SH)

U.S. Army Reserve Center #3, 4301 Goodfellow Boulevard, St. Louis, Missouri (SH)

U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)

U.S. Army Reserve Center, Burrstone Road, Utica, New York (SH)

U.S. Army Reserve Center, Watertown, New York (SH)

U.S. Army Reserve Facility, Salem, Oregon (SH)

U.S. Army Reserve Center, 3273rd U.S. Army Reserve Hospital, Suites B & C, 1003 Grove Road, Greenville, South Carolina (SH)

U.S. Army Reserve Center, Center No. 1, 2201 Laurens Road, Greenville, South Carolina (SH)

U.S. Army Reserve Center, Kukowski-Donaldson Center, Perimeter Road, Greenville, South Carolina (SH)

Lewisville Lake Park, Lewisville, Texas (SH)

Resources Management Office Building, 400 Riverside Drive, Clarkston, Washington (SH)

U.S. Army Reserve Facility, Grant County Airport, Moses Lake, Washington (SH)

U.S. Army Reserve Facility, 14631 SE. 1092nd Street, Renton, Washington (SH)

Hiram M. Chittenden Locks, Seattle, Washington (SH)

U.S. Army Reserve Facility, Mann Hall, North 4415 Market Street, Spokane, Washington (SH)

U.S. Army Reserve Facility, 3800 North Sullivan Road, Trentwood, Washington (SH)

Vancouver Army Barracks, Vancouver, Washington (SH)

Yakima Firing Center, Yakima, Washington (SH)

Departments of Army and Air Force:

Army and Air Force Exchange System, Fort Bliss Exchange, Main Store, Building 1735, Fort Bliss, Texas (SH)



Army and Air Force Exchange, Alamo Exchange Region, 5315 Summit Parkway, San Antonio, Texas (SH)

Department of Defense:

DCASR Building B-95, 2 Buildings, Marietta, Georgia (SH)

Department of Energy:

The Computer Sciences Building (CSC), 1155 Foote Drive, Idaho Falls, Idaho (SH)  
The Technical Support Building (TSB), 1580 Sawtelle, Idaho Falls, Idaho (SH)  
The Technical Support Addition (TSA), 1520 Sawtelle, Idaho Falls, Idaho (SH)  
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)

Department of Health and Human Services:

Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland (SH)  
Social Security Administration Computer Center, 6201 Security Boulevard, Woodlawn, Maryland (SH)  
National Institute for Occupational Safety and Health, 5555 Ridge Avenue, Cincinnati, Ohio (SH)

Department of Interior:

Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana (SH)  
Bureau of Land Management, District Building, Roseburg, Oregon (SH)  
Bureau of Land Management, Salem District Office, 1717 Fabry Road, SE., Salem, Oregon (SH)

Department of Navy:

Marine Corps Air Station, Yuma, Arizona (SH)  
12 Buildings, Naval Research Laboratory, Washington, DC (SH)  
Naval Communications Unit (Cheltenham), Washington, DC (SH)  
Naval and Marine Corps Reserve Center, Jackson, Mississippi (SH)  
Naval Resale and Support Office, Fort Wadsworth, Staten Island, New York (SH)  
Naval and Marine Corps Reserve Center, Newport News, Virginia (SH)  
Marine Corps Development and Education Command, Quantico, Virginia for All Family Housing Units and 38 Buildings (SH)  
Marine Corps Development and Education Command, MCCDPA Building 3041A, SABRS Annex, Quantico, Virginia (SH)  
Marine Corps Development and Education Command, Buildings 2034, 2079, 2035, 3098, and 3400, Quantico, Virginia (SH)  
Puget Sound Naval Shipyard, Equipment Maintenance Shops, Bremerton, Washington (SH)  
Naval Air Station, 37 Buildings, Whidbey Island, Washington (SH)

Department of Transportation:

Federal Aviation Administration, Air Traffic Control Tower, Atlanta, Georgia (SH)  
Federal Aviation Administration Facilities, Air Route Traffic Control Center, Hampton, Georgia (SH)  
Federal Aviation Administration, TRACON Facility, Westbury, New York (SH)  
Federal Aviation Administration Facilities, 7 Buildings, Spokane, Washington (SH)

Department of Treasury:

Bureau of Engraving and Printing, Annex Building, 14th & C Streets, SW., Washington, DC (SH)  
Bureau of Engraving and Printing, Main Building, 14th & C Streets, SW., Washington, DC (SH)

General Services Administration:

Federal Building, 3rd Avenue and 1st Street, Cullman, Alabama (SH)  
Federal Building, 109 St. Joseph Street, Mobile, Alabama (SH)  
GSA Motor Pool and Parking Garage, St. Joseph Street, Mobile, Alabama (SH)  
John A. Campbell U.S. Courthouse, 113 St. Joseph Street, Mobile, Alabama (SH)  
Federal Building and U.S. Courthouse, 15 Lee Street, Montgomery, Alabama (SH)  
Federal Building, 55 East Broadway, Tucson, Arizona (SH)  
U.S. Post Office and Courthouse, Sixth and Rogers Avenue, Fort Smith, Arkansas (SH)  
Federal Building and U.S. Courthouse, 1130 "O" Street, Fresno, California (SH)  
Federal Building, 801 I Street, Sacramento, California (SH)  
John E. Moss Federal Building, 650 Capitol Mall, Sacramento, California (SH)  
U.S. Court of Appeals and Post Office, 7th and Mission Streets, San Francisco, California (SH)  
Denver Federal Center, Building 85, Denver, Colorado (SH)  
Central, East and South Buildings, 2430 E Street, NW., Washington, DC (SH)  
Federal Building, 1724 F Street, NW., Washington, DC (SH)  
Potomac Annex Buildings 1-7, 23rd & E Streets, NW., Washington, DC (SH)  
Federal Building-U.S. Courthouse, 401 SE. First Avenue, Gainesville, Florida (SH)  
Brickell Plaza Federal Building, Miami, Florida (SH)  
Federal Building, 51 SW First Avenue, Miami, Florida (SH)  
Federal Building, U.S. Courthouse, U.S. Post Office, 601 North Florida Avenue, Tampa, Florida (SH)  
Federal Building, 355 Hancock Avenue, Athens, Georgia (SH)  
Federal Building, 275 Peachtree Street, NE., Atlanta, Georgia (SH)  
U.S. Court of Appeals, Forsyth & Walton Streets, Atlanta, Georgia (SH)  
IRS Center, 4800 Buford Highway, Chamblee, Georgia (SH)  
Federal Building, Moultrie, Georgia (SH)  
Federal Building—U.S. Courthouse, 125 Bull Street, Savannah, Georgia (SH)  
Juliette Gordon Low Federal Buildings, Building A—120 Bernard Street, Building B—124 Bernard Street, Building C—100W. Oglethorpe Avenue, Savannah, Georgia (SH)  
Federal Building, U.S. Post Office and U.S. Courthouse, Thomasville, Georgia (SH)  
Federal Regional Center, Pinetree Boulevard, Thomasville, Georgia (SH)  
Federal Building, U.S. Post Office, 304 N. 8th, Boise, Idaho (SH)  
Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho (SH)  
Federal Building, 536 South Clark Street, Chicago, Illinois (SH)  
Federal Parking Facility, 450 South Federal Street, Chicago, Illinois (SH)

Interagency Motor Pool, 701 South Clinton Street, Chicago, Illinois (SH)  
U.S. Customhouse, 610 South Canal Street, Chicago, Illinois (SH)  
OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)  
Federal Building and U.S. Courthouse, 121 W. Spring Street, New Albany, Indiana (SH)  
Federal Building and U.S. Courthouse, 101 First Street, SE., Cedar Rapids, Iowa (SH)  
Federal Building, 210 Walnut Street, Des Moines, Iowa (SH)  
Leased Spaced, 603-11 East 2nd Street, Des Moines, Iowa (SH)  
U.S. Courthouse, 123 East Walnut Street, Des Moines, Iowa (SH)  
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)  
Federal Building, U.S. Post Office and Courthouse, 330 Shawnee, Leavenworth, Kansas (SH)  
U.S. Post Office-Courthouse, 601 Broadway, Louisville, Kentucky (SH)  
Federal Building, U.S. Post Office, U.S. Courthouse, Frederica and 5th Streets, Owensboro, Kentucky (SH)  
Hale Boggs Federal Building and U.S. Courthouse, 500 Camp Street, New Orleans, Louisiana (SH)  
Federal Building and U.S. Post Office, 40 Western Avenue, Augusta, Maine (SH)  
Garmatz Courthouse and Federal Building, 101 W. Lombard Street, Baltimore, Maryland (SH)  
Social Security Complex, Woodlawn Annex and Supply Buildings, 6401 Security Boulevard, Baltimore, Maryland (SH)  
John F. Kennedy Federal Building—Low Rise, Boston, Massachusetts (SH)  
John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts (SH)  
U.S. Appraiser's Stores, 408 Atlantic Avenue, Boston, Massachusetts (SH)  
U.S. Custom House, 8 McKinley Square, Boston, Massachusetts (SH)  
Philip J. Philbin Federal Building, 885 Main Street, Fitchburg, Massachusetts (SH)  
Springfield Federal Building, Main and Bridge Streets, Springfield, Massachusetts (SH)  
Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts (SH)  
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)  
Gerald R. Ford Museum, 303 Pearl Street, NW., Grand Rapids, Michigan (SH)  
Federal Building, 212 3rd Avenue South, Minneapolis, Minnesota (SH)  
Federal Building and U.S. Courthouse, 110 S. 4th Street, Minneapolis, Minnesota (SH)  
Social Security Building, 1811 Chicago Avenue South, Minneapolis, Minnesota (SH)  
Federal Building and U.S. Courthouse, 316 N. Robert Street, St. Paul, Minnesota (SH)  
Federal Building, U.S. Post Office, and U.S. Courthouse, Main and Poplar Streets, Greenville, Mississippi (SH)



Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi (SH)  
 William M. Colmer Federal Building-Courthouse, 701 Main Street, Hattiesburg, Mississippi (SH)  
 Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)  
 U.S. Post Office and U.S. Courthouse, 245 East Capitol Street, Jackson, Mississippi (SH)  
 Federal Building, 601 East 12th Street, Kansas City, Missouri (SH)  
 Federal Records Center, 9700 Page Boulevard, Overland, Missouri (SH)  
 Federal Building, Post Office and Courthouse, 200 East Broadway, Missoula, Montana (SH)  
 Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebraska (SH)  
 Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)  
 Social Security Administration District Office Building, 686 Nye Avenue, Irvington, New Jersey (SH)  
 Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)  
 Federal Building, 20 Washington Place, Newark, New Jersey (SH)  
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 Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)  
 U.S. Post Office and Courthouse, 455 Broadway, Albany, New York (SH)  
 Federal Building, 111 West Huron, Buffalo, New York (SH)  
 U.S. Courthouse, 68 Court Street, Buffalo, New York (SH)  
 Internal Revenue Service, 120 Church Street, New York, New York (SH)  
 Jacob K. Javits Federal Building, including U.S. Court of International Trade, 26 Federal Plaza and Centre Street Garage, 203-209 Centre Street, New York, New York (SH)  
 U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)  
 U.S. Courthouse, 40 Foley Square, New York, New York (SH)  
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 Federal Building, 125 South Main Street, Muskogee, Oklahoma (SH)  
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 Lloyd Group Buildings, 5 Locations, Portland, Oregon (SH)  
 Pioneer Courthouse, 520 SW Morrison, Portland, Oregon (SH)  
 U.S. Courthouse, Broadway and Maine, Portland, Oregon (SH)  
 U.S. Customs House, 220 NE. 8th Avenue, Portland, Oregon (SH)  
 Federal Building, 6th & State Streets, Erie, Pennsylvania (SH)  
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 William J. Green, Jr., Federal Building, 600 Arch Street, Philadelphia, Pennsylvania (SH)  
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 Defense Mapping Agency, 175 Brookside Avenue, West Warwick, Rhode Island (SH)  
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 Federal Building/U.S. Courthouse, 515 9th Street, Rapid City, South Dakota (SH)  
 Federal Building-U.S. Courthouse, 400 South Phillips Street, Sioux Falls, South Dakota (SH)  
 Armed Forces Examining Station and Bureau of Mines Building, 1100 Film Street, Amarillo, Texas (SH)  
 J. Marvin Jones Federal Building and U.S. Courthouse, 295 E. 5th Street, Amarillo, Texas (SH)  
 3 Bridges and 1 Building, El Paso, Texas (SH)  
 U.S. Courthouse, 511 E. San Antonio Avenue, El Paso, Texas (SH)  
 Federal Building, U.S. Post Office and Courthouse, 211 West Ferguson Avenue, Tyler, Texas (SH)  
 Forest Service Building, 507 25th Street, Ogden, Utah (SH)  
 Federal Executive Institute, Route #29 North, Charlottesville, Virginia (SH)  
 U.S. Customs House, 101 E. Main Street, Norfolk, Virginia (SH)  
 U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia (SH)  
 Federal Building, 400 N. 8th Street, Richmond, Virginia (SH)  
 U.S. Courthouse, 10th and Main Streets, Richmond, Virginia (SH)  
 GSA Center, 2 Buildings, Auburn, Washington (SH)  
 Federal Building, 3002 Colby Avenue, Everett, Washington (SH)  
 Federal Center, 25th and Dover Streets, Moses Lake, Washington (SH)  
 Federal Building, U.S. Post Office, 403 West Lewis Street, Pasco, Washington (SH)  
 Federal Building, U.S. Post Office and Courthouse, 825 Jadwin Avenue, Richland, Washington (SH)

Federal Archives and Records Center, 6125 Sandpoint Way, Seattle, Washington (SH)  
 Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)  
 Federal Center South, 4735 E. Marginal Way, Seattle, Washington (SH)  
 U.S. Courthouse, 1010 Fifth Avenue, Seattle, Washington (SH)  
 Federal Building, U.S. Post Office, W. 904 Riverside, Spokane, Washington (SH)  
 U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington (SH)  
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 Federal Center, 14 Buildings, Walla Walla, Washington (SH)  
 U.S. Courthouse, 120 North Henry Street, Madison, Wisconsin (SH)  
 Federal Building, 500 Quarrier Street, West Virginia (SH)  
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 National Zoological Park, Washington, DC (SH)  
 Smithsonian Institution Service Center, 1111 North Carolina Street, NE., Washington DC, (SH)  
 Paul E. Garber Complex, 3904 Old Silver Hill Road, Suitland, Maryland (SH)  
 U.S. Postal Service:  
 Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois (SH)  
 Veterans Administration:  
 Veterans Administration Medical Center, Building #32, Dublin, Georgia (SH)

**JANITORIAL/MECHANICAL**

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 The Carter Presidential Library, Atlanta, Georgia (SH)  
 Federal Office Building, 591 Park Avenue, Idaho Falls, Idaho (SH)

**JANITORIAL/ELEVATOR OPERATOR**

Department of the Treasury:  
 Bureau of Engraving and Printing, Public Debt Building, Washington, DC (SH)  
 General Services Administration:  
 3 Buildings, Navy Yard Annex, 2nd and M Streets, SE., Washington, DC (SH)  
 Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)  
 Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)  
 Federal Building, 201 Varick Street, New York, New York (SH)  
 Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)

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Department of the Air Force:  
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 Department of the Army:  
 U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)  
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Naval Supply Center, Charleston, South Carolina (IB)

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Washington, DC (Metropolitan area) (SH)

Department of Commerce:  
National Oceanic and Atmospheric Administration, 5 Offices, Rockville, Maryland (SH)

National Technical Information Services,  
5285 Port Royal Road, Springfield, Virginia (SH)

Department of Defense:  
Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 1117 N. 19th Street, Arlington, Virginia (SH)

Department of Education:  
Office for Civil Rights, Office of Program Review & Assistance, 300 C Street, SW., Washington, DC (SH)

Department of Energy:  
Distribution, 12th & Pennsylvania, NW., Washington, DC (SH)

Department of Health and Human Services:  
Office of the Secretary, Washington, DC (SH)

National Institutes of Health, Bethesda, Maryland (SH)

Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)

Food and Drug Administration, Rockville, Maryland (SH)

Health Resources Administration, Rockville, Maryland (SH)

Health Services Administration, Rockville, Maryland (SH)

Office of Assistant Secretary for Health, Rockville, Maryland (SH)

Department of Housing and Urban Development:  
Washington, DC (SH)

Department of the Interior:  
18th & C Streets, NW., Washington, DC (SH)

U.S. Geological Survey, 2 Divisions, Reston, Virginia (SH)

Department of Labor:  
200 Constitution Avenue, NW., Washington, DC (SH)

Manpower Administration, Washington, DC (SH)

President's Committee on Employment of the Handicapped, Washington, DC (SH)

Department of Transportation:  
National Highway Traffic Administration, 400 7th Street, SW., Washington, DC (SH)

Office of the Secretary, Distribution Unit, 400 7th Street, SW., Washington, DC (SH)

Department of the Treasury:  
Bureau of Engraving and Printing, 14th & C Streets, SW., Washington, DC (SH)

Bureau of the Public Debt, 14th & C Streets, SW., Washington, DC (SH)

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330 C Street, SW., Washington, DC (SH)

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National Archives & Records Services, 7th & Pennsylvania Avenue, NW., Washington, DC (SH)

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Washington, DC (SH)

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#### MICROFILM REPRODUCTION

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Bag, Sleeping (8465-00-242-7855 and 8465-01-049-0088), Fort Bliss, Texas (SH)

Case, Sleeping Bag (8465-00-237-8719), Fort Bliss, Texas (SH)

Liner, Field Jacket (8415-00-782-2888), Fort Bliss, Texas (SH)

Bag, Barracks (8465-00-530-3692), Fort Bliss, Texas (SH)

Bag, Duffel (8465-00-141-0932), Fort Bliss, Texas (SH)

Department of Navy:  
Electrode Holder Assemblies, Bremerton, Washington (SH)



**REPRODUCTION SERVICE**

Department of Army:  
Army Materiel Command Headquarters,  
Alexandria, Virginia (SH)

**SEWING**

Department of Army:  
Redstone Arsenal, Alabama (Provide  
specified end items produced through use  
of customized, heavy-duty sewing  
service) (SH)

**SPONGE RUBBER MATTRESSES REHABILITATION**

General Services Administration:  
Requirements for GSA Region 3 (SH)

**TAPE CLEANING**

Department of Air Force:  
Wright-Patterson Air Force Base, Ohio  
(SH)

[FR Doc. 87-28208 Filed 12-9-87; 8:45 am]

**BILLING CODE 6820-33-M**



SYMPTOMS		TREATMENT	
1. Headache		2. Nausea	
3. Vomiting		4. Diarrhea	
5. Stomach pain		6. Constipation	
7. Abdominal distention		8. Flatulence	
9. Belching		10. Eructation	
11. Heartburn		12. Indigestion	
13. Loss of appetite		14. Weight loss	
15. Fatigue		16. Depression	
17. Irritability		18. Nervousness	
19. Sleep disturbance		20. Anxiety	
21. Dizziness		22. Blurred vision	
23. Tinnitus		24. Deafness	
25. Loss of consciousness		26. Seizures	
27. Convulsions		28. Coma	
29. Death		30. Resuscitation	



# **Environmental Protection Agency Federal Register**

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**Thursday  
December 10, 1987**

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## **Part IV**

### **Environmental Protection Agency**

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**40 CFR Parts 144, 260, 264, and 270  
Hazardous Waste Miscellaneous Units;  
Standard; Applicable to Owners and  
Operators; Final Rule**



**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 144, 260, 264, and 270****[FRL 3220-1]****Hazardous Waste Miscellaneous Units; Standard; Applicable to Owners and Operators****AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

**SUMMARY:** The Resource Conservation and Recovery Act (RCRA) authorizes the Environmental Protection Agency (EPA) to issue standards applicable to owners and operators of hazardous waste management facilities. Over the past several years, the Agency has promulgated standards for specific types of treatment, storage, and disposal units, including containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, underground injection wells, and research, development, and demonstration facilities. However, because some hazardous waste management technologies are not covered by the existing permitting standards, owners and operators of facilities utilizing them cannot obtain the RCRA permits necessary to operate them.

To fill this gap, the Agency is today promulgating a new set of standards under Subpart X of Part 264. The standards are applicable to owners and operators of new and existing hazardous waste management units not covered under the existing regulations. This will enable the Agency, and the States that adopt equivalent authorities, to issue permits to miscellaneous waste management units.

**DATE:** This final rule is effective January 11, 1988.

**ADDRESSES:** The official record for this rulemaking under docket No. F-87-SPXF-FFFFF is located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. It is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. The public should make an appointment to review docket material by calling (202) 475-9327. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost \$0.20 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the

RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC. For information on the technical aspects of this rule, contact Kent Anderson, Land Disposal Branch, Waste Management Division, Office of Solid Waste (WH-565E), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382-4654.

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  - 2. Surface Water (Including Wetlands) and Surface Soils
  - 3. Air
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  - B. Specific Information Requirements for Miscellaneous Units in § 270.23
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**I. Authority**

These regulations are issued under authority of sections 1006, 2002(a), and 3001 through 3013 of the Solid Waste Disposal Act (SWDA), as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 *et seq.*

**II. Background****A. Development of the Hazardous Waste Regulatory Program**

The Environmental Protection Agency is required by section 3004 of RCRA to establish standards for owners and operators of hazardous waste facilities in order to protect human health and the environment. These standards establish the duties of and provide the basis for issuing permits to the owners and operators of hazardous waste treatment, storage, and disposal (TSD) facilities under section 3005 of RCRA. Therefore, these standards serve not only to regulate the operations of these TSD facilities, but also to provide a basis for evaluating the issuance of these permits.

The Agency has promulgated these regulations in stages. On May 19, 1980 (45 FR 33221), the Agency issued regulations establishing administrative requirements for certain types of hazardous waste management, general provisions for facility owners and operators, permitting procedures for hazardous waste management facilities, and procedures for State program



authorization. On January 12, 1981 (46 FR 2802), the Agency issued regulations establishing technical standards and permitting requirements for certain storage and treatment facilities. On January 23, 1981 (46 FR 7678), and June 24, 1982 (47 FR 27516), the Agency issued technical standards for hazardous waste incinerators. On April 7, 1982 (47 FR 15032), and April 16, 1982 (47 FR 16544), the Agency issued regulations for demonstrating financial responsibility. On July 26, 1982 (47 FR 32274), the

Agency promulgated technical and permitting standards for new and existing TSD facilities on land, including surface impoundments, waste piles, land treatment units, and landfills.

On July 15, 1985 (50 FR 28702), the Agency amended its hazardous waste management rules to codify several statutory changes required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). These changes included revisions to the technical requirements for land TSD

facilities, revisions to the permitting requirements for all TSD facilities, and limitations on the placement of hazardous waste in salt-dome formations, salt bed formations, underground mines, and caves. In addition, these amendments included new rules that allow for the permitting of certain research, development, and demonstration facilities.

These standards are presented in Table 1.

TABLE 1.—FEDERAL RULES PERTAINING TO THE MANAGEMENT OF HAZARDOUS WASTE

RCRA Code	Description
40 CFR Part 260	Basic regulatory definitions of what is covered under these standards.
40 CFR Part 261	Definition of a hazardous waste.
40 CFR Part 262	Requirements for hazardous waste generators.
40 CFR Part 263	Requirements for hazardous waste transporters.
40 CFR Part 264	Establishes the permitting standards in the form of specific conditions for facility operation, design, performance, and location.
40 CFR Part 265	Establishes operational standards for existing facilities (on or before November 19, 1980) with "interim standards" until the site has obtained a final permit or it loses its interim status because of the provisions outlined under HSWA.
40 CFR Part 266	Establishes standards applicable to generators and transporters of materials used in a manner that constitutes disposal. This also includes standards for disposal of specific hazardous wastes where hazardous materials are used/recycled for recovery of heat, precious metals, and reclaimed batteries.
40 CFR Part 268	Sets treatment standards and schedules for prohibition of wastes for land disposal (including surface units, injection wells, salt domes, salt beds, underground mines or caves, or concrete vaults or bunkers).
40 CFR Part 269	Establishes permitting standards for control and monitoring of air emissions at TSDs.
40 CFR Part 270	Outlines definitions and basic requirements for RCRA permits.
40 CFR Part 271	Sets out the guidelines for final approval of State hazardous waste programs that will be used instead of the Agency's program.
40 CFR Part 124	Establishes the permit process to be followed under several Agency programs.

#### B. Summary of the Need for Subpart X

Although the Agency has issued regulations for the major hazardous waste management technologies and practices, gaps still remain. To close the gaps in the RCRA regulations and to cover unregulated hazardous waste management units, on November 7, 1986, the Agency proposed the Subpart X rule. Subpart X covers miscellaneous units and essentially completes the coverage of hazardous waste management units.

Currently, promulgated regulations in 40 CFR Parts 264 and 265 are the primary regulations for many types of hazardous waste management units as defined in § 260.10. These include containers, tanks, surface impoundments, waste piles, land treatment units, landfills, and incinerators. Research, development, and demonstration facilities and underground injection wells are regulated under Part 270 and the Underground Injection Control Program of the Safe Drinking Water Act (40 CFR Part 146), respectively.

The Agency is aware, however, that certain existing and future hazardous

waste management practices and technologies do not or may not fit the description of any of the units covered by the existing regulations. If they do not fit these descriptions, then they cannot be fully permitted and can only operate as interim status facilities. This is not desirable because it prevents the construction of new units or expansion of existing units. For example, thermal treatment of hazardous waste in units other than incinerators, boilers, or industrial furnaces may not be fully permitted because such units are not at present covered by Part 264 or Part 266. This means that existing units with interim permit status under Part 265 may not receive a full Part 264 RCRA permit. In addition, Part 264 permitting standards provide better environmental protection than the interim standards.

The Agency has received a number of requests that standards be issued to allow the construction of new hazardous waste management units not previously covered by Part 264. Furthermore, some types of new units that cannot now be constructed may reduce risks to human health and the environment from the management of hazardous waste.

Therefore, the Agency regards the Subpart X rule as a means of allowing flexibility for technological development and innovation.

#### C. General Approach and Scope of Subpart X

This regulation covers miscellaneous units not regulated under the standards for specific types of treatment, storage, and disposal units in Part 264 Subparts I through O or Part 146 or Part 270. Because these standards cover both existing and future treatment, storage, and disposal technologies, today's approach is to promulgate a new set of general standards that will cover diverse technologies and units. The Agency may develop specific technology standards in the future, if the need arises.

The Agency is regulating under today's rule most of those units that are not covered by a subpart under Part 264 or Part 146. For example, units that do not fit the definition of any of the units covered by the standards of Part 264 or Part 146 would be regulated as miscellaneous units. In addition, unless otherwise excluded, if a new type of unit



were developed that did not fit the definition of tank, container, surface impoundment, waste pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, or underground injection well, it would be regulated under Subpart X. An example of a miscellaneous unit would be a thermal treatment unit such as a wet-air oxidation device that is not an incinerator or a tank. Another example would be a long-term retrievable storage unit that is not a tank, waste pile, landfill, or other Part 264 unit, or an underground injection well. An example of a unit that will not be regulated under Subpart X, as explained in III.B.2., is open burning of nonexplosive wastes.

Subpart X will not supersede or replace any specific restrictions on activities contained in another subpart or provide a vehicle for escaping from those restrictions. For example, 40 CFR 264.175 stipulates that container storage areas must have a secondary containment system to drain and remove leakage. This requirement may not be evaded by seeking a permit under Subpart X.

Likewise, miscellaneous units permitted under Subpart X that are also defined by RCRA as "land disposal" units (see final rule at 51 FR 40572) may not avoid the Part 268 restrictions on land disposal of untreated or improperly treated hazardous waste. For example, although the use of an underground mine, cave, or formation for the placement of hazardous waste may, under some circumstances, be considered a miscellaneous unit, such a unit would also be subject to the Part 268 land disposal restrictions, since it is defined as "land disposal" by RCRA. Therefore, any hazardous waste subject to land disposal restrictions that is placed into a miscellaneous "land disposal" unit must be treated prior to land disposal in compliance with a treatment standard promulgated under Part 268, unless the owner or operator demonstrates, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the unit for as long as the waste remains hazardous.

#### *D. Comments Received on the Proposed Rule*

The 43 sets of public comments received on the November 7, 1986, proposal generally favored the implementation of Subpart X. The Agency considered all the public comments and categorized them into three general areas to provide a collective response:

- Specificity of Subpart X standards,

- Definition of "miscellaneous unit," and
- Redefinition of "landfill."

General responses to the first two categories appear below. In addition, the Agency discusses certain comments more specifically in later sections of the preamble.

Comments applicable to the redefinition of "landfill" are discussed in Section IV.B of the preamble. "Background Document: Subpart X Comments and Responses" contains all of the public comments that were received in accordance with the request for comments in the proposal and the Agency's response to these comments. This document is available in the Subpart X docket.

#### *1. Specificity of Subpart X Standards*

The Subpart X standards specify that health and environmental safety must be a primary concern during the management of hazardous wastes in miscellaneous units. The standards also require that existing regulations become an integral part of today's Subpart X standards for "miscellaneous" units. The Agency's intention of incorporating existing regulations with general Subpart X standards was the approach generally welcomed by the commenters.

The Agency has concluded that it is best to develop generic standards, not technology-specific standards, because the generic standards can cover a set of diverse technologies effectively. Most commenters have confirmed the need for such an approach. If the Agency developed technology-based standards, the Subpart X rule would not differ from the existing requirements in Parts 264 and 265. For most of the miscellaneous units, insufficient information is available to develop technology-based standards at this time. Even for those units for which there may be sufficient information available to develop technology-based standards, to do so would result in a major delay in permitting these units while standards were developed, proposed, and finalized. Therefore, the Agency chose to develop generic standards after considering the advantages and disadvantages of other approaches, including design and operating standards, technical and environmental performance standards, containment standards, and facility-specific risk assessment. Subpart X provides the Agency with flexibility in regulating miscellaneous units by providing generic permitting standards under Subpart X.

The Subpart X rule allows the hazardous waste management industry flexibility in developing new technologies or modifying existing

technologies. Public comments suggest that certain units, such as open burning/open detonation (OB/OD), physical/chemical/biological treatment units (e.g., pyrolysis, stripping, and in-situ biodegradation), and land-based hazardous waste disposal units (e.g., salt beds, salt domes, and underground mines or caverns), may require technology-specific standards. Some of these technologies are unique methods for managing specific types of hazardous wastes for which no alternative technology exists, and none of the existing permitting standards may be applicable. However, the Agency believes that the generic permitting standards under Subpart X would be just as applicable to open burning/open detonation, physical/chemical/biological treatment units, and land-based hazardous waste disposal units as any other Subpart X unit. Moreover, under Subpart X, the Agency has the flexibility to develop technology-specific standards for these units on a permit-by-permit basis when considering the technology-specific data submitted by the applicant to develop the permit conditions based on the environmental performance standards and to issue a permit.

A significant number of comments were received discussing different hazardous waste management technologies that the commenters considered should be eligible candidates for Subpart X permits. For a few technologies, extensive descriptions were submitted as part of the comment. For example, separate descriptions were submitted for each of these technologies: wet air oxidation, aboveground engineered vaults, enclosed buildings, in-situ biodegradation, in-situ vitrification, and open burning/open detonation of explosive wastes. The information obtained from these comments will be useful when the technology becomes widely used. At that time, the Agency will consider developing guidance or specific standards for those units included as miscellaneous units. As an example, the Agency is developing permit guidance for open burning/open detonation of explosive wastes.

A few commenters objected to the unlimited authority that Subpart X gives a permit writer when permitting a wide range of miscellaneous units. They saw this authority as a possible hindrance to the effective permitting of specific units.

The Agency agrees that there may be some cases in which permit writers must exercise some discretion. However, the Agency is developing permit guidance for certain types of units that will



provide assistance in the permitting process. While this guidance will not be binding on the Agency, and there still may be some permit variations between similar units, we believe that permit guidance will reduce any such variations by providing direction to permit writers and permit applicants, with regard to specific Subpart X technologies. For example, the Agency is developing specific Subpart X permit guidance for OB/OD and geologic repositories other than injection wells. This guidance will explain how to mitigate emissions or releases from these units and thus minimize long-term health and environmental hazards. As more experience is gained, the Agency may develop guidances on other Subpart X units. In addition, the Agency will use the support of EPA's Permit Assistance Teams (PAT) staff to promote nationwide consistency in the issuance of Subpart X permits. The PAT staff can also help the individual permit writer understand unfamiliar technologies.

Some commenters requested clarification on when ground water and/or surface water must be monitored at miscellaneous units. The Agency requires that when applying for a permit, the applicant must assess the potential for release or migration of hazardous constituent(s) to each of the media. Based upon this assessment, a determination will be made as to the type and frequency of monitoring that will be necessary at any specific unit or site.

## 2. Definition of "Miscellaneous Unit"

"Miscellaneous unit" is defined in the proposed Subpart X rule as a hazardous waste management unit that is used to treat, store, or dispose of hazardous wastes but that does not fit the current RCRA definition of container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, or underground injection well.

Most of the commenters suggested that the Agency should provide a list of technologies or units that can be categorized as Subpart X units. They believed this would avoid confusion over which units should be permitted under Subpart X. If such an all-inclusive list were published with today's rule, however, it would become quickly outdated because new technologies are being developed frequently. In response to commenters' requests, the Agency has provided examples of units in Section III, B.1 and 2, that are covered and not covered under today's rule. Since Subpart X is a catchall category, the list provided here is not all-inclusive and comprehensive.

Commenters also indicated that a definitive listing of all applicable units would circumvent the need for requiring two types of permits (e.g., a tank-like unit would not need both a tank permit and a Subpart X permit). They claimed that obtaining two permits is very costly and time consuming and often duplicates efforts. The Agency does not intend to require two permits for any miscellaneous unit. Under the regulatory approach selected today, a Subpart X permit would be issued for the miscellaneous unit, which may include certain requirements that are specific to other types of units. For example, for a miscellaneous unit resembling a tank, a Subpart X permit would be issued that would include certain of the Subpart J tank standard requirements.

## 3. Redefinition of "Landfill"

Comments applicable to the redefinition of "landfill" are discussed in Section IV.B of the preamble.

## III. The Agency's Approach

### A. Alternative Approaches Considered

In preparing the proposed Subpart X rule, the Agency considered a number of regulatory approaches. The Agency selected a combination approach since no singular approach was best suited to protect human health and the environment while still providing flexibility in addressing the diversity of waste management units included in Subpart X. Under this approach, appropriate elements of design and operating standards, technical performance standards, containment standards, facility-specific risk assessment, and environmental performance standards will be applied to miscellaneous units on a case-by-case basis. This approach will result in less delay by providing permitting standards for those miscellaneous units for which sufficient data are not available to develop more specific standards. The alternative approaches considered were design and operating standards, technical performance standards, containment standards, facility-specific risk assessment, environmental performance standards, and a combination of these approaches.

### 1. Design and Operating Standards

Design and operating standards would require the installation of specific equipment or the use of particular processes. These standards would be process- and unit-specific.

The majority of commenters favored these standards, since many were interested in obtaining specific requirements for their units. The Agency

determined that preparing these standards would be resource-intensive because it would need to collect extensive data on each specific type of unit. In addition to collecting the data, the Agency would need to develop a proposed rule and promulgate a final rule which would also greatly delay the permitting of miscellaneous units. Therefore, this approach would be a detriment to the development of innovative technology, since owners or operators would need to wait for EPA to promulgate new rules before applying for a permit.

Under today's approach, all miscellaneous units will be permitted under the general standards of Subpart X. Nevertheless, in the future, the Agency may develop specific design and operating standards for the various types of units, when there is a better understanding of the technology, process efficiency, and process safety needs.

One commenter who disagreed with the Agency, believed that the design and operating standards (or technical performance standards) for Subpart X units would be easy to implement. In contrast, another commenter agreed with the Agency's decision *not* to propose specific design and operating standards for miscellaneous units, because it would be impossible to regulate a new technology by predetermined design and operating standards that may or may not be appropriate for the individual unit in question. In addition, he further claimed that these predetermined standards could be more or less stringent than necessary to protect human health and the environment.

The majority of the commenters were concerned about the lack of specific design and operating standards for OB/OD facilities. They feared that omitting specific standards may lead to extensive delays and considerable expense in the permitting process. They were concerned that they may not be able to address completely the permit reviewers' requirements and may have difficulty obtaining a permit.

After reviewing the comments, the Agency believes that the promulgation of unit-specific design and operating standards is not necessary at this time. The generic standards, in conjunction with the permit guidance under development for OB/OD units, should provide sufficient information to develop permits without excessive delays. Moreover, the Agency is uncertain whether it possesses sufficient information to promulgate specific design and operating standards for OB/



OD units. Even if it had such information, the process of developing, proposing, and promulgating unit-specific standards for these units would cause major delays in issuing permits for these units. At some later date, the Agency may decide to develop specific design and operating standards for these units.

## 2. Technical Performance Standards

This regulatory approach would establish specific engineering objectives and allow the permit applicant to develop a design or set of practices to achieve these objectives.

One commenter indicated that it is difficult to define technical performance standards, since the technologies and associated "engineering objectives" will be continually refined. Another commenter suggested "establishing performance standards whereby a treatment operator would be required to demonstrate a degree of minimal acceptable variability in a treated product with respect to constituents of concern." A third commenter stated that the Agency should determine performance capabilities and establish specific levels of performance for thermal treatment devices (e.g., pyrolysis, calcination, wet-air oxidation, and microwave destruction). The Agency agrees with the first commenter mentioned above and has decided not to use this approach, because the specificity of the engineering objectives contained in technical performance standards could make permitting extremely difficult for miscellaneous units involving innovative technologies.

In response to the second commenter, the Agency agrees that certain technical performance standards could be developed to protect human health and the environment, however, a single set of these standards in all likelihood may not be suitable for all of the diverse types of miscellaneous units. Second, other than for possibly one or two technologies, the development of all technology-inclusive technical performance standards is not feasible because of (a) the lack of adequate data for setting standards and (b) the continued development of new technologies. In response to both the second and third commenters, for those units for which there possibly is sufficient information available to develop technical performance standards, these units could be excluded from the Subpart X rule. However, to do so would result in several years' delay in permitting these units while the standards are being developed, proposed, and finalized. However, in the future, specific standards may be

developed for certain types of units when adequate data become available.

One commenter proposed setting waste-specific standards rather than technical performance standards. The Agency rejected this suggestion, since waste-specific standards would create the same problems as discussed for the technical standards for innovative technologies. Moreover, insufficient data are available to develop waste-specific standards. As more information becomes available, however, the Agency may consider developing such standards.

## 3. Containment Standards

Another approach the Agency considered was the development of performance standards requiring containment of hazardous waste within certain boundaries. While such an approach may prevent environmental contamination under some hydrogeological conditions, the Agency is concerned that it may only delay contamination in others. In addition, absolute containment in all media may not always be necessary to protect human health and the environment.

The Agency did not receive any support for this approach or any suggestions as to how this approach could be used for miscellaneous units. On a case-by-case basis, however, some permits issued under today's rule may be based on containment (for example, the containment features achieved by the design and operating standards for landfill units), such as liners and barriers or a combination of containment features and geological siting considerations.

## 4. Facility-Specific Risk Assessment

The Agency's evolving policy is to assess more explicitly the risks involved in its permitting and regulatory decisions. Under a facility-specific risk assessment regulatory approach, the permit applicant would be required to perform fate and transport analyses and human health and environmental risk assessments based on the RCRA goal of protecting human health and the environment. However, since the costs of risk analyses could be extremely high for miscellaneous units, and since the data available for estimating risks from Subpart X units are limited, this approach was not considered feasible as a sole regulatory approach.

Three commenters responded to this approach. They thought that facility-specific risk assessment would be expensive, time-consuming, inconclusive, and difficult to implement. In addition, they stated that there may not be enough data available to make

valid risk assessments. One commenter suggested that a comprehensive risk analysis should be required only when specific standards for other permitted operations or processes (e.g., wastewater discharges, air emissions) are unavailable.

The Agency agrees that using risk assessment as the sole approach is not appropriate for many of the same reasons identified by the commenters.

Today's approach assesses the risks from various releases and the potential emissions of hazardous constituents in a general way. Based on the assessment data submitted with a permit application, specific design and operating standards to mitigate the site-specific risks could be identified and incorporated during the permitting process.

## 5. Environmental Performance Standards

Environmental performance standards seek to set either the numerical health and environmental standards or the nonnumerical performance requirements necessary to protect human health and the environment. These standards may take the form of numerical exposure specifications (such as the allowable concentration of a chemical at the points of human exposure), pollutant concentrations permitted to be released to the environment, or general objectives or goals to serve as a guide for protecting human health and the environment.

The Agency views environmental performance standards as the most important feature of today's rule for new and existing miscellaneous waste management units. For example, existing environmental performance standards for air and water may be utilized, as appropriate, in permitting a facility. Section 3005 of RCRA requires that standards applicable to owners and operators of treatment, storage, and disposal facilities be those "necessary to protect human health and the environment."

If this approach was selected as the sole approach, however, then it might be difficult for permit applicants of certain types of miscellaneous units to consistently demonstrate compliance with these standards. For example, with the open burning/open detonation technology, emissions monitoring is not feasible. Thus, it would be difficult to demonstrate compliance with an established performance standard. For the same reason, enforcement of these standards for certain units might be difficult. In addition, this approach was not selected as the sole approach



because the existing performance standards for air and water do not address all constituents of concern under RCRA Subtitle C.

One commenter questioned the need for special performance evaluations under Subpart X. This commenter noted that air emissions and effluent standards are now required for more conventional technologies that could be applied to most Subpart X thermal, chemical, and biological treatment units, with the exception of open burning/open detonation of explosive wastes. In addition, the commenter asserted that treatment standards for the land disposal restrictions will apply to Subpart X units and, therefore, should reduce requirements for special operating and environmental standards.

The Agency disagrees with these comments. EPA foresees the need for special performance evaluations because the existing air and water standards, when applied to certain Subpart X units, may provide inadequate protection to human health and the environment since they do not address all constituents of concern under RCRA Subtitle C. As stated earlier, the existing applicable standards and any additional requirements specific to a given unit will minimize the health and environmental risks. Environmental performance standards as a part of today's approach allow flexibility in meeting goals for the protection of human health and the environment. The flexibility offered by this approach is needed in Subpart X because of the variability of miscellaneous units.

#### 6. Combination of Approaches

This approach combines the appropriate elements of all five previously discussed alternatives, and applies them on a case-by-case basis. Several commenters supported this approach as providing flexibility for innovative technologies. One commenter, however, stated that the units included in Subpart X were so diverse that one general rule may be difficult to apply. But the Agency believes that the diversity of existing units and the need to include potential future technologies necessitate a general rule that can be applied on a case-by-case basis.

#### *B. Selected Approach for Subpart X Standards*

After evaluating the various alternatives, the Agency selected the proposed combination approach without modification for today's rule for miscellaneous units. This approach is based on appropriate elements of all

five alternatives discussed above and will be applied to miscellaneous units on a case-by-case basis. Under this approach, miscellaneous units will be required to be located, designed, constructed, operated, maintained, and closed in a manner that will prevent any release that may have adverse effects on human health or the environment due to migration of waste constituents into the ground water or subsurface environment; surface water, wetlands, or soil surface; or air.

The Agency has decided to use Subpart X standards to regulate all units that are not currently included elsewhere under RCRA. These include, but are not limited to, (a) placement of hazardous waste in geologic repositories other than injection wells; (b) placement of hazardous wastes in deactivated missile silos, other than injection wells or tanks; (c) thermal treatment units other than incinerators, boilers, or industrial furnaces; (d) units open burning and open detonating explosive wastes; and (e) certain chemical/physical/biological treatment units. The units that are excluded from Subpart X include: (a) units currently regulated under other portions of Part 264; (b) units open burning nonexplosive hazardous wastes; (c) units excluded from permitting under Parts 264 and 270; (d) certain mobile units; (f) enclosed buildings for treatment, storage, or disposal; (e) underground injection wells (40 CFR 146); and (9) RD&D units covered under 270-65.

Units covered under today's rule will comply with standards that provide performance objectives for protection of human health and the environment. The performance objectives require permit applicants to evaluate the potential environmental impacts of the unit or facility and to demonstrate that any releases from the unit will not adversely affect human health or the environment.

For technologies where (1) a particular hazardous waste management system resembles another type of unit for which EPA has promulgated standards and (2) the permit applicant has identified the differences between the potential effects on human health and the environment posed by the two units, the use of site-specific design, operating, monitoring, and containment procedures modified to account for the differences must be developed and, therefore, will be required parts of the facility permit. Generally, these standards will be drawn from existing regulatory requirements and guidance documents, as well as permit guidance being developed for specific types of miscellaneous units. For units that do not resemble another type of unit, the

applicant must still address the unit's effect on all media, and, where appropriate, specific requirements applicable to other types of units will be added to the facility permit.

In the permitting process, selected features of design and operation, technical performance, containment, and environmental performance standards, as well as the risk-based assessment, will be specified, so that the overall objective of protecting human health and the environment is achieved. Determination of the appropriate requirements will be made on a case-by-case basis and the rationale for their applicability will be provided in each permit. In certain cases, the design and operation of a Subpart X unit may resemble that of a specific type of unit now regulated under RCRA (e.g., a landfill). To the extent that they are similar, the appropriate requirements under the existing unit-specific subparts will be applied. For example, for some units, liners may be specified.

The regulatory approach finalized today by the Agency offers several advantages. First, it allows the Agency to address a full range of environmental issues raised by any waste management situation without waiting to establish specific design and operating conditions or other standards. By identifying several sets of environmental performance standards in today's rule, the Agency allows development of waste- and site-specific permits responsive to various ground-water, surface water, and air quality concerns, as well as complex natural processes in the surface and subsurface environments that may arise at each site. The Agency will also apply the authority of section 3005(c)(3) "omnibus" to other Part 264 hazardous waste management units as necessary to protect human health and the environment.

Second, for those Subpart X units requiring compliance with the standards developed for a specific medium, appropriate portions of the existing standards will be incorporated into the permit as required by today's rule. For example, in regulating air emissions from pyrolysis units, the Agency will incorporate the applicable portions of existing standards (e.g., incineration standards for meeting the air quality standards).

The Agency has concluded that it is not possible to set design and operating standards for all of the potential Subpart X units, since a variety of units will be covered by today's rule. One set of standards either will not be stringent enough or will be excessively stringent



when applied to these diversified technologies. Subpart X will cover a number of technologies for which little or no information is available; hence, the Agency's decision not to set technology-based standards. However, the site and unit-specific information submitted during the permitting process for individual units will allow the permit-issuing authority to tailor each permit to the particular risks and circumstances based on the nature of the technology, the types of wastes, the site location, and the regional meteorological, climatic, and hydrogeological characteristics. For example, in the case of innovative technologies, data collected under a RD&D permit may be submitted when risk assessment data are not available.

A comprehensive evaluation as required by today's rule will provide assurance that the permitted miscellaneous unit poses a minimal environmental threat. However, situations may arise when the Agency must deny a permit or defer a decision until additional data become available. Under certain circumstances, to obtain the additional data, a research, development, and demonstration permit might be appropriate. In cases where the permit application must be denied, the Agency will follow the procedures for the Notice of Deficiency (NOD) under 40 CFR 124.3.

The major disadvantage of the proposed approach is that the bulk of the design, construction, operation, monitoring, and closure specifications will be developed and specified through the permit process. As discussed above, the Agency will review and adopt or modify relevant requirements from Subparts I through O of Part 264, as appropriate. As more permitting or research experience and knowledge are gained, the Agency may develop guidances for specific types of facilities to aid the permit applicant and writer (e.g., the Agency is preparing guidance on open burning and open detonation of explosive wastes and on emplacement of wastes in certain massive geologic formations such as salt domes). In addition, the Agency will provide assistance to a permit applicant or writer.

#### 1. Examples of Units Covered Under Subpart X

Because the Agency intends Subpart X to cover "miscellaneous" units, including future technologies, a definitive list of the units that will be covered under the subpart cannot be provided. However, the Agency agrees that it will be helpful to identify several

types of units that may receive permits issued under Subpart X.

a. *Placement of Hazardous Waste in Geologic Repositories.* Placement of containerized hazardous waste or bulk non-liquid hazardous waste in geologic repositories such as underground salt formations, mines, or caves, either for the purpose of disposal or long-term retrievable storage, is included under Subpart X. Clarification of units that are regulated under the RCRA permit-by-rule for injection wells with Underground Injection Control permits is included in III B.2.(e) of the preamble.

Restrictions on land disposal of hazardous waste imposed by sections 3004(d) through (m) of RCRA apply to these units. These standards dictate that restricted hazardous wastes cannot be disposed of on land beyond specified dates, unless they are treated in compliance with Agency-established treatment standards or unless EPA grants a variance that demonstrates that there will be no migration out of the unit for as long as the wastes remain hazardous.

b. *Placement of Hazardous Waste in Deactivated Missile Silos.* Treatment, storage, and disposal of hazardous waste in deactivated missile silos that are not underground injection wells or are not covered under Part 264 standards will be covered under Subpart X. However, to the extent that the deactivated missile silo meets the regulatory definition of an injection well or tank it would be regulated under 40 CFR Part 146 or Part 264, respectively. Clarification as to units that are regulated under the RCRA permit-by-rule for injection wells with Underground Injection Control permits is included in III B.2.(e) of the preamble.

c. *Thermal Treatment Units Other Than Incinerators.* A number of different types of thermal treatment units, including combustion and noncombustion types, are in operation today and have potential application to hazardous waste treatment. Combustion and noncombustion units such as molten salt pyrolysis, calcination, wet-air oxidation, and microwave destruction, which are not covered under Part 264 Subpart O regulations will be covered under Subpart X. Many of these units have not yet operated on a commercial scale, but owners of some of these units are expected to seek RCRA hazardous waste facility permits for commercial operation in the future.

d. *Open Burning/Open Detonation of Explosive Wastes.* These units (as defined in § 265.382) are neither typical thermal treatment units nor incinerators. The Agency promulgated interim status

standards applicable to open burning and open detonation units in Subpart P of Part 265 (§ 265.382 on May 19, 1980 (45 FR 33251)). These standards require (1) that units be operated in a manner that does not threaten human health and the environment and (2) that a minimum safe distance from other properties be maintained when waste explosives are disposed of by open burning or open detonation. Permitting of hazardous waste management units for open burning or open detonation of waste explosives is covered in the Subpart X rule. When upgrading existing units or permitting new units, the applicable portions of Part 265 Subpart P standards (e.g., minimum safe distances) will be incorporated during issuance of Subpart X permits. Because OB/OD is a treatment process, it is not subject to the land disposal restrictions imposed by sections 3004 (d) through (m) of RCRA.

e. *Certain Chemical, Physical, and Biological Treatment Units.* Hazardous waste management units that treat hazardous waste by chemical, physical, or biological methods in units other than tanks, surface impoundments, and land treatment units during interim status are covered under Subpart Q of Part 265. The Subpart X regulations of Part 264 and the applicable portion of Subpart Q of Part 265 will be considered in permitting these units. Under the land disposal restrictions, no *in-situ* hazardous waste treatment on land will be permitted (without the *prior* use of a best demonstrated available technology (BDAT) for treatment). Therefore, none of the *in-situ* treatment methods will be Subpart X units/technologies.

#### 2. Examples of Units Not Covered or Units for Which Subpart X Permits Will Not Be Issued

a. *Treatment, Storage, and Disposal in Units Currently Regulated Under Part 264.* Under today's rule, treatment, storage, or disposal in units now regulated under Part 264 may be permitted only under the applicable subparts of Part 264. For example, placement of hazardous waste in a tank or surface impoundment for treatment is covered under Subpart J or Subpart K, respectively, and disposal of hazardous waste in a tank is covered under Subpart N, and must be permitted using those standards.

b. *Open Burning of Nonexplosive Hazardous Waste.* Although by its terms Subpart X applies to all units not covered under Part 264, including open burning and open detonation of nonexplosive hazardous waste, the Agency has concluded that open burning of such non-explosive waste cannot be



conducted in a manner that is protective of human health and the environment. The Agency made this finding in 1980 in promulgating the general ban on open burning of nonexplosive hazardous waste (40 CFR 265.382) and has no new information to suggest this conclusion should be revised. The Agency, therefore, intends to deny any permit applications it receives under Subpart X for such activities.

c. *Units Excluded From Permitting Under Parts 264 and 270.* Certain units are specifically excluded from permitting under the Part 264 and Part 270 standards. For example, publicly owned treatment works and ocean disposal activities are not permitted under Part 264 standards, since they are covered by permits-by-rule (see 40 CFR 264.1 (c) and (e)). Another example is operation of a wastewater treatment unit (40 CFR 264.1(g)(6)). These units continue to be excluded from Part 264 standards and would not be subject to Subpart X.

d. *Mobile Units.* Mobile waste management units are becoming available and may be used for treatment of hazardous wastes as part of a general waste treatment strategy or on a short-term basis to destroy specific wastes for remedial site cleanup, spill control, and other types of emergency responses. These units are presently regulated under 40 CFR 264 and 270, and certain changes to the permit requirements have been proposed and are currently being evaluated by the Agency. These units may also be involved in research, development, and demonstration activities and, as such, may be covered by a research, development, and demonstration permit.

Mobile units using technologies that are covered under other subparts of Part 264, such as incineration or treatment in containers, are excluded from Subpart X. However, those units included in Section IIIB.1., which are mobile, are covered under today's rule.

e. *Placement of Hazardous Waste Underground That Is Currently Regulated Under Part 146.* RCRA Subpart X permitting will not apply where EPA has an existing permit program which addresses the particular hazardous waste management practice. It is thus necessary to outline those waste management practices currently covered by the underground injection control (UIC) program. Hazardous waste injection is regulated under the authorities and mandates of both the Safe Drinking Water Act (SDWA) and RCRA. Wells must have authorization under both acts to operate. Authorization-by-rule under 40 CFR 144.21 or a UIC permit under 40 CFR 144

Subpart D provides the SDWA authorization for hazardous waste wells. Interim status under 40 CFR 265.430 or a RCRA permit-by-rule under 40 CFR 270.60(b) provides the RCRA authorization. This permit system is in place for the injection in bulk form of liquids, slurries, and sludges. Technical standards for these practices are in 40 CFR Part 146.

These current technical standards, however, do not fully address some potential disposal or storage practices that may fall under EPA's regulatory definition of well injection. EPA defines "well injection" in 40 CFR 144.3 and 146.3 as the "subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth is greater than the largest surface dimension." EPA defines "fluids" in 40 CFR 144.3 and 146.3 as "material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state."

A broad reading of these definitions might suggest that granular hazardous waste poured into a salt dome, for example, would be within the scope of the UIC program. The very recent opinion in *NRDC v. EPA*, Cons. Cases No. 85-1915 and 86-1096 (1st Cir., July 17, 1987) contains language suggesting extremely broad interpretations of the scope of the UIC program. This opinion remands regulations for the disposal of high level radioactive waste, spent nuclear fuel, and transuranic wastes at 40 CFR Part 191 which were promulgated under the mandates of the Nuclear Waste Policy Act of 1982 (NWPA) and the authority of the Atomic Energy Act of 1954. Some of the legal analysis, however, concerns interpretations of "well injection" and "fluids" under the SDWA. The opinion suggests that containers or solids lowered down a shaft would be "well injection" of "fluids" if contaminants in this material might ultimately "flow" or move into the accessible environment (Slip-Opinion at page 29). The court was particularly concerned that EPA had not evaluated the relationship of the SDWA and NWPA.

We are currently evaluating the legal analysis in this opinion and will address the specific issues of these definitions at a later date. However, EPA believes that it can address the issue of RCRA Subpart X and UIC permitting at this time for the range of long-term retrievable storage and disposal practices. Part 146 technical standards do not currently address practices other than the injection of noncontainerized liquids, slurries, and sludges. Other management practices, such as the placement of containerized wastes or

solids, would require standards on a case-by-case basis. EPA intends the environmental objective for these latter practices to be the same, such as will meet the requirements of the SDWA and RCRA, whether a particular practice is termed to be "underground injection" or not. Specifically, in the context of this regulation, the Agency intends to apply the mandate of the SDWA to prevent the endangerment of underground sources of drinking water, as is consistent with RCRA's mandate to protect human health and the environment.

This final rule provides that the Director apply standards for these miscellaneous management practices through the RCRA Subpart X permit. RCRA permit procedures provide at least as much public participation as the UIC permit procedures and are thus, a fully appropriate vehicle to impose standards whether solely under the authority of RCRA or under the combined authority of RCRA and the SDWA (See 40 CFR Part 124). The final rule, therefore, contains amendments to 40 CFR Part 144.31 which requires that a Subpart X permit will constitute a UIC permit for hazardous waste well injection for which current Part 146 technical standards are not generally appropriate. In promulgating this amendment to § 144.31, we are not specifying that these miscellaneous management practices constitute underground injection, but rather, to the extent any of these practices may be determined to be underground injection § 144.21 will authorize a facility under the SDWA if the unit has a RCRA Subpart X permit.

The above permitting scheme does not, in and of itself, remove the restrictions on the placement of noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave under section 3004(b)(1). That provision requires the Administrator to find, after notice and opportunity for hearings on the record in the affected areas, that such placement is protective of human health and the environment to remove the prohibition. "Fluids" under the UIC program are "liquids" under § 3004(b) when they do not pass the Paint Filter Liquids Test contained in Method 9095 of the "Test Method for Evaluating Solid Wastes, Physical/Chemical Methods" [EPA Publication No. SW-8461].

f. *Enclosed Buildings Used for Treatment, Storage, or Disposal.* The Agency is considering under separate action the appropriate mechanism to permit activities in enclosed buildings.



While this does not rule out the possibility that these units could be permitted under Subpart X, no decision has been made at this time.

g. *Research, Development, and Demonstration (RD&D) Units Covered Under § 270.65.* The purpose of an RD&D permit is to allow for testing and demonstration of innovative and experimental technologies, including the modification of existing technologies. If a unit meets the requirements of an RD&D permit under § 270.65, then that unit will not be eligible for a Subpart X permit.

#### IV. Amendments to Part 260: Definitions

After evaluating the public comments and current definitions of Part 260, the Agency has added a new definition for "miscellaneous unit," and has amended the "landfill" definition.

##### A. Miscellaneous Unit

Today the Agency defines the term "miscellaneous unit" to refer to hazardous waste management units used to treat, store, or dispose of hazardous wastes that do not fit the current definition of container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for an RD&D permit under § 270.65.

None of the commenters suggested specific definitions for "miscellaneous unit." They did, however, address several units or processes that they believe should or should not be included as miscellaneous units. One commenter stated that the definition of "miscellaneous unit" is too broad and that the Subpart X standards along with this definition may further encumber the already overburdened RCRA permitting process. On the other hand, another commenter indicated that the definition of "miscellaneous unit" is adequate, provided the existing expansive definition of "landfill" is appropriately limited.

Two commenters requested clarification. One suggested that enclosed buildings should not be considered waste piles or tanks and, therefore, should be considered miscellaneous units. The other stated that clarification is necessary to avoid possible confusion between open burning/open detonation units and waste piles and other types of units.

An additional commenter suggested that "open burning," as defined in 40 CFR 260.10, does not accurately define the nature of the reaction that occurs at facilities treating explosive wastes.

Another commenter proposed that the definition of "open burning" be amended to include "detonation" and "deflagration." A few commenters suggested that the Agency define the types of wastes that can be burned or detonated in open burning/open detonation units.

In general, it appears that some of the commenters believe that a clear definition and understanding of "miscellaneous unit" is essential to meet applicable permitting requirements under Subpart X without undue delays. Second, commenters requested a definitive list of units, processes, or technologies that can be considered "miscellaneous units" under Subpart X in order to minimize any confusion in the permitting process that may result from this regulation.

Through both the definition and the discussion in this preamble, the Agency has made it clear what is meant by a "miscellaneous activity" and what units can be eligible candidates for Subpart X permits. The Agency concluded that by making the definition of "miscellaneous unit" broad, it allows the owner or operator and the regulatory authority to incorporate all types of units not previously covered under Part 264. In the preamble, we have attempted to further clarify the types of units that are covered and not covered under Subpart X by giving various examples under each category. However, an all-inclusive list of units covered by Subpart X is not provided. To do so would require amending the regulation each time a new process is developed. This would greatly delay the permitting of such units.

##### B. Landfill

Today's rule defines "miscellaneous unit" as a catchall category. Previous to today's change, landfills as defined in 40 CFR 260.10 covered certain units that did not fit within the definition of other land disposal units. Under that provision, "landfill" meant "a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well." Therefore, "landfill" was a catchall category for all disposal facilities that did not meet the definition of a land treatment facility, a surface impoundment, or an injection well. The use of the term "miscellaneous unit" as the catchall category requires redefining "landfill" so as to limit it to a discrete category of specific units covered under Subpart N of Part 264. Therefore, in the Subpart X proposal, the Agency requested comments on how to clarify

the landfill definition such that it no longer constituted a catchall category.

After considering all of the comments received on this issue, the Agency has decided to define the term "landfill" similar to the definition in § 260.10 with a few minor modifications. Under today's rule, the Agency has defined the term "landfill" to mean a disposal facility or part of a facility where hazardous waste is placed on or in land and which is not a land treatment facility, a surface impoundment, an injection well, a pile, a salt dome formation, a salt bed formation, a cave, or a mine.

In the proposed rule, the Agency requested comments specific to the redefinition of "landfill". After a careful review of all the comments, the Agency decided not to significantly change the previous "landfill" definition but rather to clarify those units that are classified as "landfill" facilities.

A significant number of comments were received on the proposal to revise the existing "landfill" definition. The majority of these comments addressed the adequacy of the proposed goal to identify more precisely the types of waste management practices included within this category. The Agency has accomplished this goal by listing additional practices that are either included in or excluded from the definition.

A "disposal facility", as defined in § 260.10, means a facility used for intentional placement, where waste will remain after closure. This distinguishes storage and treatment in tanks from disposal facilities. However, it also allows the placement of wastes in tanks and vaults used for disposal provided the unit meets the landfill standards.

The new "landfill" definition provides that piles are not landfills. When "landfill" was defined in 1980, it was clearly the intent of the Agency to exclude piles. By amending our landfill definition to reflect this fact, we are simply clarifying the scope of the definition.

In the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Solid Waste Disposal Act, Congress recognized salt dome formations, salt bed formations, caves, and mines as separate types of hazardous waste facilities or units and in section 3004(b) directed the Agency to develop standards for these units. If these units were already covered by the landfill standards, this would be unnecessary. Similarly, under section 3004(k) of HSWA, the types of units covered by the land ban are separately listed as landfills, salt dome formations, salt bed



formations, underground mines, caves, etc. Clearly, Congress did not intend that these units be covered by the term "landfill."

"Landfill" will cover tanks or vaults used for disposal of hazardous waste. Subpart J of Part 264 only regulates storage and treatment in tanks and the Agency to date has not developed specific standards for disposal of hazardous waste in tanks. However, under limited circumstances, the Subpart J standards do allow treatment or storage tanks that cannot remove all contamination at closure to close and to perform post-closure care in accordance with the closure and post-closure requirements for landfills. Disposal in tanks will be regulated under the Subpart N standards as a landfill because "landfills" and the disposal of hazardous waste in tanks raises similar human health and environmental concerns and because tanks are similarly placed on or in the land. This does not result in a change in the way tanks used for disposal are regulated, since previous to today's rule the landfill category constituted a catchall category for disposal units not regulated elsewhere.

By changing the "landfill" definition, the Agency has not changed the status of those facilities that were previously considered to be "landfills". Rather, the change has clarified the previously described scope of the definition. Consequently, this change has not reduced the scope of facilities covered under either the land ban provisions of section 3004(d) of HSWA or the minimum technology requirements of section 3004(o) of HSWA.

#### V. Amendments to Part 264: Subpart X Regulation for Miscellaneous Units

The regulations promulgated today under 40 CFR Part 264 apply to miscellaneous waste management units that are used to treat, store, or dispose of hazardous waste. Conforming changes to accommodate the addition of Subpart X are provided for in Part 264, Subparts B, E, F, G, and H. These changes merely serve to make the general requirements of Part 264 applicable to miscellaneous units.

The Agency intends the general facility requirements of Part 264, Subparts A through E, G, and H, to apply to miscellaneous units. In addition, although the Agency made an oversight in the proposed rule, under today's final rule the corrective action requirements of section 3004(u) that were codified at 40 CFR 264.101 automatically apply to miscellaneous units. The Subpart F ground-water protection requirements will apply

somewhat differently to miscellaneous units compared to the conventional types of units. For miscellaneous units, Subpart F requirements under § 264.101 for corrective action will always apply. However, the requirements under § 264.91 through 264.100 for monitoring and response action programs apply only to those units that have a potential for contamination of ground water. These standards will apply on a case-by-case basis through the new § 264.602, which is explained below.

It should be noted that the term "Director" has been substituted for "Regional Administrator." "Director" means the Regional Administrator or the State Director in an authorized State, as the context requires. This change conforms to the terminology selected for use in other recent amendments to the hazardous waste management regulations.

The promulgated standards for miscellaneous units are discussed below, section by section.

#### A. Section 264.600—Applicability

This section limits the applicability of the regulations of Subpart X to owners and operators of miscellaneous hazardous waste management units. By using the term "miscellaneous," this section incorporates the definition of "miscellaneous unit" from § 260.10.

#### B. Section 264.601—Environmental Performance Standards

The most important features of the regulations for new and existing miscellaneous waste management units are the environmental performance standards set forth in § 264.601. Section 3004 of RCRA requires that standards applicable to owners and operators of treatment, storage, and disposal facilities be those "necessary to protect human health and the environment." In § 264.601, the Agency has translated this overall goal into a set of objectives that provide a guide for owners and operators of miscellaneous units and for permit writers. Those objectives are to protect ground water, surface water (including wetlands), air quality, and soil, which are the principal pathways for migration of hazardous constituents to receptors. While each of these objectives must be addressed in the permit, a permit may not need to specify conditions that protect each of these environmental media.

Most of the commenters suggested that the environmental performance standards, if made unit-specific, would aid in protecting human health and the environment from releases of contaminants. Other commenters objected to the requirement for detailed

ground-water, surface water, and air quality assessments, especially for facilities using technologies where it is unlikely that the waste or its constituents would come in contact with water, soil, or air media. As stated in the preceding paragraph, an assessment must be conducted for each medium, however, if the assessment shows that there will be no impact on a given medium; the permit need not specify conditions to protect that medium.

Another commenter said that these standards are geared to toxic wastes. The commenter further indicated that, in the case of explosive wastes, there will be a poor fit between these regulatory requirements and a particular unit. The commenter stated that ground-water migration is unlikely during open burning of explosive wastes. The performance standards require that an assessment be conducted for each of the media. If the assessment shows that, in this case, ground water will not be impacted, then the permit need not specify conditions to protect the ground water.

The Agency, however, does not feel that it is appropriate to promulgate specific environmental performance standards at this time. Given that miscellaneous units will be regulated by issuing individual permits that are unit- and site-specific, human health and the environment can be protected without being overly stringent in some cases and/or too lenient in others. It is expected that the unit-specific environmental performance standards defined in Subparts I through O will provide baseline, acceptable protection and, at the same time, will allow flexibility in issuing case-by-case variation during the permitting under the Subpart X regulation. In addition, the Agency is developing unit-specific guidance for certain units and may, in the future, provide additional technology-specific guidance, if necessary.

The Agency does not view § 264.601 as a set of specifications that will directly apply to all owners and operators of miscellaneous units. Rather, § 264.601 provides a general set of objectives that will guide the permit applicant (owner or operator), the Agency, and the public in evaluating the acceptability of each unit and the adequacy of the unit design and operation to mitigate risk. The permit applicant is expected to propose the specifications for location, design, construction, operation, monitoring, maintenance, closure, and, where appropriate, post-closure care based on



supporting data and information on the specific unit.

Detailed analysis of each factor in § 264.601 may not be necessary in a permit application, depending on its relevance to the type of unit under consideration and the associated health and environmental risks. For example, certain completely enclosed biological, physical, or chemical treatment units may not require permit conditions imposing monitoring requirements for air or ground water. On the other hand, specific thermal treatment units covered under this subpart may require extensive air monitoring. All of the factors identified in § 264.601, however, should be considered and their relevance should be addressed in the application.

Based on the information about the environmental impacts, specific conditions beyond those suggested by the applicant may be included by the Agency in the permit. Once issued, the permit governs where a unit is to be located and how it is to be designed, constructed, operated, monitored, maintained, and closed.

Few comments were received on each environmental medium—e.g., ground-water migration, surface water and soils, and air. The majority of commenters elaborated on their concerns related to the hazard assessment and the need for controls under the broad category of environmental performance standards. The commenters indicated that they favored development of Subpart X permitting standards because they provide flexibility for developing unit- and/or site-specific assessments of contamination of specific media in the permitting process.

The Agency below discusses what factors should be considered by applicants and permit writers in assessing the potential for adverse effects on each medium. These factors include the type of waste managed, the types of technologies, the types and quantities of emissions or releases, and the extent of migration or dispersion of the waste in various media. The permit applicant must submit information on these assessments, which must be included in the permit in order to be considered as a complete permit application. These assessments must be in sufficient detail to support the applicant's position in demonstrating minimal impact and/or minimizing adverse impacts on each medium.

#### 1. Ground-Water and Subsurface Migration

Section 264.601(a) lists several factors to be considered to prevent any release

that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment. These factors must be addressed to prevent ground-water contamination and the subsurface migration of hazardous waste from miscellaneous units (e.g., geologic repositories and hazardous waste management units that are placed in or on land).

The first factor includes the volume, concentration, and physical and chemical characteristics of the waste placed in the unit. The volume and concentration determine the maximum amount and concentration of waste that may enter the ground water. Physical and chemical characteristics determine (1) the toxicity of the waste; (2) the ability of the waste to be contained, immobilized, degraded, or attenuated or to migrate in various soils and materials; and (3) the probability of undesirable reactions taking place among wastes or between wastes and liners or other containment structures.

The second, third, and fourth factors are the hydrogeologic characteristics of the site and surrounding land, the existing ground-water quality, and the quantity and direction of ground-water flow, respectively. Because these three factors affect the movement of waste constituents in the subsurface environment, they are crucial in assessing the impact on human health and the environment. The hydrogeologic characteristics of the site determine the effect of human activities in the area on the ground water. The third factor focuses on the existing ground-water quality and sources of contamination other than the miscellaneous unit. This factor is relevant for predicting future ground-water uses and the incremental risk of the new unit. The fourth factor assesses the rate and direction of migration and the potential contamination of the site.

The fifth factor is the proximity to and withdrawal rates of current and potential ground-water users. While ground water as a source of drinking water is a primary concern, agricultural and industrial uses of ground water should also be considered. Clearly, water that is contaminated by hazardous waste leachate may present health risks. Information on State ground-water planning and regulatory efforts should also be considered. Also, any changes in ground-water withdrawal rates or patterns can alter the rate of ground-water movement, which influences the rate and direction of migration of contaminants to exposure points. This information is not

only necessary to identify potential impacts to the ground water, but it also can be used in determining monitoring well locations, where necessary.

The sixth factor focuses on land-use patterns. Land-use patterns can change hydrogeologic characteristics and they in turn can alter the rate and direction of potential migration to and distribution of wastes in ground water. This information will be used to identify potential impacts to the ground water.

The seventh factor is movement of waste constituents in the subsurface. This includes migration of waste in gaseous or vapor forms. Subsurface migration of wastes is a type of environmental degradation apart from contamination of ground water. The Love Canal incident provides a classic example of unsaturated zone migration. There, waste constituents migrated from a landfill into the basements of nearby homes. The residents were directly exposed through physical contact with waste and inhalation of volatile contaminants. The potential adverse effects of subsurface migration of waste constituents must be considered in addition to any direct effects on surface water and ground water. The same factors that influence ground-water protection are significant when considering subsurface migration.

Both the saturated and unsaturated zones must be considered in evaluating the potential for subsurface migration. This requires knowledge of the characteristics of the waste in the unit and the hydrogeology of the surrounding area. The patterns of land use in the area, including proximity to residential buildings, are particularly important here.

Also considered in factor seven is the migration of wastes to the soil root zone of food-chain crops and other vegetation. Phytotoxicity may occur as a result, as in the case of heavy metals at high concentrations. Even more important, roots may absorb certain hazardous constituents, which the plant may uptake and pass into the human food chain.

The eighth and ninth factors are the potential adverse impacts that exposure to waste constituents can have on human health and on animal health, plants, and physical structures, respectively. This potential depends on many factors, including the concentration, quantity, toxicity, and transport of the waste constituents.

One commenter agreed that the factors listed in § 264.601 for ground water were necessary to evaluate the adequacy of protection provided by a particular unit. Another commenter



suggested that the rule is unclear on how the need for ground-water monitoring will be evaluated. One other commenter questioned why all units must provide data on hydrogeologic characteristics, land-use patterns, ground-water quality, associated human health effects, and animal and crop exposure assessments. This commenter further suggested that data requirements be tailored to the specific type of unit. Another commenter pointed out that it is not necessary to perform a detailed ground-water and surface water assessment for a facility managing or treating a waste that never comes in contact with the surface of the ground. For example, some open detonation facilities have a synthetically lined detonation range.

In response to the above concerns, the Agency does not necessarily require that all miscellaneous units provide a detailed assessment for each of the nine factors. The standard in § 270.23(b) requires that the factors be considered and evaluated, and assessment data must be presented in the permit application. If the permit applicant's preliminary assessment of these factors indicates that the facility will not impact the factor, and the preliminary assessment of that factor is convincing to the Director, then a detailed assessment is not needed. However, a detailed assessment and associated permit conditions must be developed for those factors found by the preliminary assessment to have the potential for ground-water contamination and migration. The preliminary and detailed assessment procedures are not envisioned as a two-tiered permit process. The preliminary assessment is a tool used by an applicant to avoid the need to conduct a detailed assessment, if the preliminary assessment shows that a detailed assessment is not necessary. The adequacy and findings of the assessments will be considered by the Director as part of the permit review process.

## 2. Surface Water (Including Wetlands) and Surface Soils

Improper disposal of hazardous wastes can have immediate, far-reaching, and long-term effects on human health or the environment due to migration of waste constituents in surface water or wetlands or on surface soils. Units for which factors related to surface water, wetlands, and surface soils may require particular emphasis are those that are situated on land and are used in an open or semi-enclosed manner. It is, therefore, essential to ensure that these structures are designed and constructed to prevent

surface water, wetlands, and surface soil contamination.

Many of the same factors that influence ground-water protection and minimize risk from subsurface migration of waste constituents are significant for the protection of surface water, wetlands, and surface soils. Therefore, the sections listed in § 264.601(b) are similar to those in § 264.601(a).

The first factor to be evaluated is the volume of the waste in the unit and the waste's physical and chemical characteristics. This factor determines the potential for contamination of surface water, wetlands, and surface soils.

The effectiveness of containment structures should be considered in the second factor because surface waters, wetlands, and surface soils may be contaminated by ground-water migration and by overland flow of waste constituents. Precipitation, run-on, and runoff controls and subsurface structures should be considered, including liners, dikes, diversion ditches, and cut-off walls.

The third, fourth, fifth, and sixth factors require considerations of the hydrogeology and climate of the area. These factors evaluate the area's topography, rainfall patterns, characteristics of ground-water flow, and the proximity of a unit to surface waters. These factors determine the distribution and degree of surface water, wetlands, and surface soil contamination.

The seventh, eighth, and ninth factors evaluate patterns of surface water and land use, existing surface water, wetlands, and surface soil quality, other sources of contamination, and water quality standards. This information is needed to provide insight into the likelihood of health or environmental impacts. Water quality standards provide numerical and narrative criteria tied to particular uses of water bodies. These criteria should guide the Agency, permit applicants, and the public in evaluating the acceptability of managing waste in a particular unit.

In the tenth and eleventh factors, the impacts of waste constituents entering surface waters on human health and on animals, plants, and physical structures must also be analyzed.

One commenter suggested that surface soil for the active portion of open burning/open detonation facilities, as well as soil samples from the primary downwind areas, be monitored and that the monitoring schedule be based on the volume of waste destroyed. The Agency has concluded that establishment of monitoring schedules is more

appropriately defined in the permitting process than in the standards. However, because open burning/open detonation of explosive waste is carried out in pits, trenches, or on the ground surface, or in areas exposed to precipitation, the Agency agrees that it is vital that the factors in this section be adequately addressed so that run-on and runoff are controlled and residual wastes are effectively contained within a well-defined open burning/open detonation area.

## 3. Air

Some waste management units may present a significant potential for adverse effects on air quality. Section 264.601(c) requires the prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, and lists various factors that may be considered in protecting air quality.

The first factor considers the volume and characteristics of the waste in the unit and its potential to react or evaporate to form gaseous, aerosol, or particulate products that enter the atmosphere.

The second factor considers the effectiveness of systems and structures to prevent gaseous, aerosol, or particulate emissions.

The third factor considers the operating parameters of the units that make air emissions likely and create a potential for the production of toxic or explosive gases, aerosols, or particulates.

The fourth and fifth factors take into account the atmospheric, meteorologic, and topographic conditions of the site location, the existing air quality, and the sources of contamination near the site.

The sixth and seventh factors assess the potential adverse impacts on human health and on plants, animals, and physical structures. Of special concern is the inhalation of hazardous constituents by humans exposed to air emissions from these units.

Units for which these air standards have particular importance include open burning/open detonation units and thermal treatment units, such as calcination, pyrolysis, and multi-hearth furnaces. In most cases, air emissions from open burning/open detonation cannot be controlled since it is impossible to operate these units under totally enclosed conditions. Because of this, it is essential that open burning/open detonation (OB/OD) permit applicants consider the volumes and characteristics of the waste, as well as the meteorologic and topographic conditions of the site location. However,



one commenter suggested an alternative technology for controlling air emissions from open burning (not detonation) of explosive wastes. This technology effectively reduces emissions by using an air scrubber. It may, therefore, be an attractive option for some facilities that open burn explosive wastes. In addition, units that thermally treat hazardous wastes can release hazardous air emissions. While permits for these thermal treatment units may incorporate most of the incinerator performance standards under Part 264, these standards may not be sufficient or applicable for Subpart X units; therefore, these units must provide the assessment of air quality factors.

One commenter observed that just as a surface facility must consider and guard against accidental contamination of waters or soils, it must also consider the possibility of contaminated air or gas emissions. Therefore, this commenter suggested that the seven factors included in § 264.601(c) be fully considered. In contrast, commenters expressed concern over the use of the word "any" release, viewing it as too restrictive and not warranted for general applicability to all units. Three commenters noted that air emissions resulting from OB/OD cannot be controlled and, therefore, this technology should be exempt from the requirements of § 264.601(c).

By using the word "any," the Agency does not necessarily mean "no" releases. When a potential exists for a release (e.g., during OB/OD, where air emissions are difficult to control), an assessment must be made of all the factors important in protecting air quality.

There was also concern that if the unit is subject to evaluation and to permitting requirements for stationary sources under the Clean Air Act or under State and local air pollution control standards, such standards should be implemented by these authorities, as they are beyond the Agency's authority under RCRA in those jurisdictions. The Agency does not agree that its RCRA authority does not apply to air emissions. Section 3004(n) clearly requires EPA to control air emissions from hazardous waste facilities. EPA will attempt to minimize any duplication of control by incorporating applicable standards from the Clean Air Act into the RCRA permit. A permit may also include additional necessary conditions imposed under RCRA authorities. For example, current standards under the Clean Air Act may not address all types of hazardous air emissions at treatment, storage, and disposal facilities.

One commenter also objected to the use of "hazardous constituent" in § 264.601. He preferred "hazardous constituent of the waste." The Agency did not change the wording "hazardous constituent" because if the unit is only monitored for hazardous constituents of the waste, then hazardous constituents of possible reaction products will go undetected.

Another commenter suggested that since most State air pollution control regulations prohibit open burning but provide an exemption for explosive waste, the RCRA permitting of open burning should be limited to those exemptions or waivers. The Agency agrees with this commenter and has restricted permitting of OB/OD to explosive wastes.

One commenter indicated that a study is being completed to identify and characterize emissions generated at military OB/OD facilities. This commenter suggested that the Agency consider the data, conclusions, and recommendations from this study in determining the type of monitoring requirements for OB/OD disposal activities. The Agency intends to use this information in developing a permit guidance document on OB/OD.

#### *C. Section 264.602—Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action*

Under § 264.602, each miscellaneous waste management unit must have a monitoring program that includes, where appropriate, a ground-water, surface water, soils, and air quality monitoring system. (Alternatives to ambient air monitoring and analysis may include analysis of waste, emissions measurements, and periodic monitoring with portable detectors.) A monitoring program must include procedures for sampling, analysis, and evaluation of data, suitable response procedures, and a regular inspection schedule. This requirement is intended to ensure that the permit specifies all monitoring, inspection, and response activities and the frequency with which these activities are to be conducted. Including these specifications in the permit will require monitoring by the owner or operator to prevent violation of permit requirements and to prevent damage. It will also enable the oversight agency, through inspections and enforcement, to assess whether the unit is in compliance with the permit and, therefore, with the requirements of § 264.601.

Since each miscellaneous unit covered by this section may be distinctive in its design, operation, and location, the Agency is leaving the specifications as well as the extent of the monitoring,

inspection, and response program to the evaluation of the permitting official. At a minimum, the monitoring program for a miscellaneous unit should be capable of determining the unit's impacts on ground water in the uppermost aquifer, surface water, air quality, and the extent of surface and subsurface contaminant migration, to ensure compliance with § 264.601.

The program should consider the following: (1) The depth and location of monitoring wells or other sampling devices necessary to obtain representative samples of constituents in various media; (2) the constituents to be monitored and the frequency of monitoring; (3) procedures to maintain the integrity of monitoring devices; (4) sample collection and preservation procedures; (5) analytical methods used for sampling and analysis; (6) applicable procedures for the evaluation of data from the monitoring program; and (7) appropriate response procedures for cases where the monitoring program indicates that the unit is not in compliance with § 264.601.

The monitoring, inspection, and response program under a Subpart X permit will include requirements linking inspections and monitoring of the unit to the appropriate response. The Agency will incorporate the Part 264 Subpart F standards for ground-water monitoring, protection, and corrective action for establishing a ground-water monitoring program at appropriate Subpart X units.

The owner or operator of each miscellaneous waste management unit covered by this section must comply with the biennial reporting requirements specified under § 264.75. These requirements are the same as those in effect for all hazardous waste treatment, storage, and disposal facilities that are specifically regulated under Part 264.

Under RCRA authority contained in sections 3004 (u) and (v), the Agency is developing standards for corrective action at facilities seeking a RCRA permit. EPA has already codified the general obligation to perform corrective action for release from Solid Waste Management Units (SWMUs) at hazardous waste facilities (see 40 CFR 264.101). In the interim, EPA will make a decision on appropriate corrective actions for SWMUs on a case-by-case basis in individual permit proceedings. These standards, scheduled to be proposed in late 1987, will be applicable to hazardous waste management units including Subpart X units to the extent that they can be applied without resulting in highly hazardous situations or adverse cross-media contamination and are technically feasible. Until these



new standards are finalized, the corrective action requirements in § 264.101 apply to Subpart X.

One commenter suggested that the regulations relating to ground-water and surface water monitoring are necessary but should be clarified. The commenter further noted that for some operations (e.g., OB/OD) only some of the factors need to be addressed. Additionally, this commenter suggested that the scope of the requirements should be clarified when a more extensive analysis is indicated. In this commenter's opinion, the requirement in § 270.23(b) is overly broad and the information necessary for detailed assessments often will not be available. Thus, these assessments may be prohibitively expensive if the requirement is broadly interpreted. Another commenter was concerned that the Agency is leaving the specifications, as well as the extent of the monitoring, inspection, and response requirements, to the evaluation of the permitting official.

The Agency agrees to some extent with these commenters. If the Agency provides a comprehensive list of permit requirements, it will be easier for both permit applicants and permit writers in addressing the informational requirements. However, because of the diversity of the types of miscellaneous units, it is impossible to identify specific information requirements for individual units. Where applicable, the Agency prefers that a permit applicant provide (a) detailed plans and engineering reports; (b) hydrologic, geologic, atmospheric, and meteorologic assessments; (c) information on the potential pathways of exposure of humans or environmental receptors and the extent of exposure; and (d) closure and post-closure procedures. In addition, because the nature of each unit can vary a great deal, any steps taken to meet the requirements of the Subpart X environmental performance standards must also be furnished.

One commenter was concerned that the Subpart F standards for ground-water monitoring are not mandated, *carte blanche*, but are used where appropriate. He noted that in some sections it is clearly stated that miscellaneous units need not comply with Subpart F requirements, and that conversely, in other sections of the rules, the Agency implies that the permit applicant must comply with Subpart F where ground-water monitoring is deemed necessary. This commenter suggested that these inconsistencies should be clarified to require permit applicants to establish a ground-water monitoring program where it is

necessary to protect human health and the environment. The Agency agrees and requires compliance with Subpart F ground-water monitoring requirements on a case-by-case determination when necessary to protect human health and the environment.

The monitoring, analysis, inspection, response, and reporting requirements described in this rule are designed to be generic with the establishment of unit-specific requirements during the permitting process. By providing specifics for OB/OD units and geologic repositories in permit guidance to be developed, the Agency will identify unit-specific monitoring and analysis needs.

#### *D. Section 264.603—Post-Closure Care*

In addition to complying with the appropriate post-closure standards of Subpart G of Part 264 during the post-closure care period, owners and operators of miscellaneous units permitted under Subpart X that dispose of hazardous wastes must continue to meet the environmental performance standards of § 264.601 that applied in the operating period. This requirement is included to ensure that units used for disposal are maintained properly after closure. It is also applicable to treatment or storage units that cannot completely remove or decontaminate soils or ground water at closure.

Maintaining the unit during this period must be based upon procedures that are specified in a written post-closure plan, as required in § 264.118. Where appropriate, the post-closure plan must include monitoring, response, and maintenance procedures.

In response to post-closure requirements, one commenter recommended that the miscellaneous unit concept also be incorporated into Part 265. He stated that this would allow for the use of innovative technologies during closure of facilities with interim status. He also stated that often materials present at sites regulated under Part 265 must be treated as part of the closure activity and that preparation of a RCRA Part B permit application for new activities at a facility can take up to two years. He argued that some regulatory mechanism should be available for the amendment of a RCRA Part A permit to allow for new activities related to the closure of a site. Unless the miscellaneous unit concept is expanded to Part 265 and an expeditious procedure is developed to amend Part A permits, new technologies for treating hazardous waste will be largely unavailable to facilities closing under interim status.

The Agency recognizes the commenter's concern related to

innovative technologies developed under interim status. This commenter is attempting to close a facility using an innovative technology. If the commenter is developing a new technology to treat hazardous waste at the facility being closed, or if he is demonstrating the application of a newly developed technology to treat hazardous waste, then this commenter may be able to use a research, development, and demonstration permit under § 270.65, assuming that he meets all of the requirements of that section. The purpose of RD&D permits is to allow for testing and demonstration of innovative and experimental technologies, including the modification of existing technologies, if the technology is experimental or innovative and there are no permit standards for the activity. Cleanup of facilities may occur, incident to testing and demonstration, under an RD&D permit. If the activity does not qualify for an RD&D permit, then the facility owner or operator must apply for a Subpart X permit.

The commenter stated that guidance on what is meant by removing all "contamination," as well as other "how clean is clean" issues, would be useful in closing Subpart X units. The Agency agrees and is preparing a "clean closure" guidance for release in the fall of 1987 that will provide useful information on one option for closure of land-based units.

Another commenter suggested that Subpart X should address closure of miscellaneous units in a fashion similar to that set forth in subparts relating to tanks, landfills, waste piles, etc. Specifically, § 264.110 should be amended to reference Subpart X. A new section in Subpart X should address closure and post-closure in language similar to the analogous sections in Subparts I through O.

The Agency disagrees with this commenter. Because of the unique characteristics of the miscellaneous units, the specific requirements given in Subparts I through O for closure and post-closure are not necessarily appropriate. Therefore, under § 264.603, these units must continue to comply with the appropriate post-closure standards of Subpart G of Part 264 and the environmental performance standards of § 264.601 during the post-closure care period. However, for a unit that resembles, by definition, one of the units in Subparts I through O, those standards may provide a starting point in developing closure and post-closure requirements for the miscellaneous unit.

In one commenter's opinion, requiring post-closure care if a facility cannot



"remove all contaminated soils or ground water" at closure is unduly restrictive and should be limited to toxic and hazardous constituents remaining at the facility after closure at a level determined to be a threat to human health and the environment. In response to this comment, the Agency, under a separate action, is developing a clean closure guidance. In addition, the Agency in the preamble to the March 19, 1987, Part II, Federal Register sets forth the RCRA standards for "clean closure."

## VI. Amendments to Part 270: Permit Requirements

### A. General Permit Requirements

Application and review requirements for permitting hazardous waste management facilities under RCRA are contained in Part 270. All owners and operators of units that treat, store, or dispose of hazardous waste in miscellaneous units must obtain permits under Part 270 regulations. Subpart X applicants must comply with the general application requirements, including Part A permit requirements, Part B general application requirements of § 270.10, and Part B specific information requirements. Part 270 regulations specify what information owners and operators of facilities must submit in their permit applications to demonstrate compliance with the Part 264 standards (both the general standards in Subparts A through E, G and H, F when required, and the specific standards in Subpart X). The general information requirements in Part 270 apply to all owners and operators of miscellaneous units.

Most of the comments specific to the permit requirements indicated a need for (1) standardization and acceleration of the permitting process; (2) minimization of the need for individual permits by providing an industry-specific variance, a class permit, or a special permit; and (3) an individual analysis of the applicability of permits and regulations prior to the permitting process. Some commenters were concerned that permit writers will be too autonomous, and that too much specialization will be required to issue Subpart X permits effectively. This could complicate the permitting process by causing both a shortage of qualified permit writers and increased costs to industry, as well as creating an inconsistency in the implementation of the permit standards by the writers.

The Agency has attempted to alleviate to some degree the commenters' concerns over the diverse permit requirements in today's rule by providing a standard, generic permit requirement for miscellaneous units. This standard permit requirement

incorporates Part 264's individual compliance standards required under Subparts A through H, as well as the specific standards in Subpart X. In the Agency's opinion, technical support from the Permit Assistance Teams, any technology-specific permit guidance, and the availability of detailed technology descriptions, engineering reports, and information on monitoring, operational features, as well as maintenance, inspection, analysis, and closure procedures contained in the permit application should provide the permit writer with sufficient information to effectively develop permits on the miscellaneous units.

One commenter suggested that the Agency should incorporate standards developed by other agencies, such as the Department of Defense (DOD), Department of Energy (DOE), and the Nuclear Regulatory Commission (NRC). Another commenter requested that a generic permit application form for Subpart X units be developed. Other commenters preferred a specific exemption for *de minimis* quantities of waste processed by certain units operated by the explosives industry. Under RCRA, Small Quantity Generators (SQGs) are provided exemption from the permitting requirement in § 261. However, none of the treatment and disposal standards contained in Part 264 provide exemption from the permitting requirements for managing *de minimis* quantities and the Agency has no authority to, nor does it see any reason to exempt *de minimis* quantities.

The Agency regards these comments as very constructive and has incorporated portions of them in the development of today's rule. For example, in cooperation with the Department of the Army, the Agency is developing a permit guidance for OB/OD. The Agency also intends to review DOE's and NRC's permitting standards developed for the disposal of nuclear wastes in salt domes and deactivated missile silos. In the Agency's opinion, existing Part B permit application forms used for all other subparts of Part 264 are sufficient and provide adequate detail. Hence, no specific permit application form for Subpart X units is warranted. Although the Agency is not providing specific Subpart X permit applications, it is identifying the specific information requirements in the following section.

Another commenter suggested that the Agency should concentrate on establishing an information system capable of informing permit writers of miscellaneous units and providing up-to-

date information on what units have been permitted in various States and EPA regions. In his judgment, this would shorten the time spent "reinventing the wheel." The Agency welcomes this suggestion and wants to point out that the Hazardous Waste Data Management System (HWDMS) data base, even though not seen as a perfect information dissemination tool, does serve the purpose of data transfer among the States, EPA regions, and EPA Headquarters.

The HWDMS data base can be accessed through the National Computer Center (NCC), Research Triangle Park, North Carolina, by the Headquarters, Regional, and State EPA officials or their approved contractors. This data base provides hazardous waste generators and management facility-specific information related to Parts A and B permit status. For each type of hazardous waste facility, detailed information is coded. The information includes Standard Industrial Codes (SIC); the facility's name and address; the permit status; the quantities and types of wastes generated and managed; the types of treatment, storage, and disposal methods and their capacities; and financial and ownership status. The data base is updated and revised frequently.

Currently, such a status-reporting mechanism is used by the Agency for tracking research, development, and demonstration (RD&D) permits. Similarly, the Agency may provide the status of various Subpart X permits to Permit Assistance Teams (PAT) staff and permit writers. The intent of the Subpart X units' status reports is to provide current information, such as (a) the types of units for which permit applications are submitted, (b) the unit's permit status, and (c) a brief description of the unit. This will allow various permit writers and PAT staff in different regions to permit similar units consistently and efficiently.

### B. Specific Information Requirements for Miscellaneous Units in § 270.23

The specific information requirements for miscellaneous units included in § 270.23 are intended to clarify and define the type of unit that is being permitted. The applicant must describe the unit, its physical characteristics, materials of construction, and dimensions. The bulk of the application is expected to contain detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of



§§ 264.601 and 264.602. The plan should include a detailed process description.

In developing the application, each of the environmental performance standards must be assessed. Where this assessment indicates that releases to air, surface water, or ground water are possible, the applicant is expected to provide detailed hydrologic, geologic, and meteorologic assessments and maps for the region surrounding the site. Applications for disposal units must contain a description of the plans to comply with the post-closure requirements of § 264.603.

The permit application must contain information (a) on the potential pathways of exposure to humans or environmental receptors of hazardous waste or hazardous constituents and (b) on the potential magnitude and nature of such exposures. In addition, for each treatment unit, any reports on demonstrations of the effectiveness of similar treatment based on laboratory, bench-scale, pilot-scale, or field data gathered under an RD&D permit should be submitted.

If the unit to be permitted involves an innovative or experimental waste treatment process or technology where insufficient data are available to assess its effectiveness, if it is to be demonstrated over a short period of time, and if the technology will be conducted in a unit that meets the RD&D criteria, an RD&D permit may be necessary. For additional information on RD&D permits, refer to § 270.65 and EPA Publication No. EPA/530-SW-86-008, "Guidance Manual for Research, Development, and Demonstration Permits Under 40 CFR Section 270.65." If the demonstration is to be long term (i.e., may eventually be used as a commercial-scale treatment process) or does not meet the RD&D criteria, a permit may be obtained under Subpart X. Under certain circumstances, an RD&D permit may be necessary to gather additional data that may be required to fulfill Subpart X permit-related risk assessment needs. To gather such data the owner/operator can use the RD&D permit as a vehicle to demonstrate the effectiveness of a technology.

If a multi-stage demonstration project is to be permitted under Subpart X, two possible permitting options are available. First, a single permit that covers the entire demonstration could be written. As revisions are needed to a permit to reflect the outcome of individual stages, permit modifications could be requested under 40 CFR 270.41 and 270.42, provided the reason for requesting a modification meets one of the criteria for modification in these

subparts. Alternatively, where the outcome of one stage may radically change the subsequent stages, a permit could be obtained for this first stage. At its completion, a permit could be issued for the subsequent stages. Each permit would terminate with the completion of a stage, and a new permit would be issued for the succeeding stage, based upon an evaluation of the results of the concluded stage. The exact permitting strategy to be used would be determined by the permit writer, based upon the type of treatment process and the demonstration.

Under § 270.23, a detailed description of the unit will be required specific to the development of a unit's design, construction, location, operation, maintenance, inspection, and closure so that it meets the requirements of the environmental performance standards.

One commenter was concerned over the information requirements on potential pathways of exposure of humans or environmental receptors to hazardous wastes or constituents. He suggested that knowledge of the potential magnitude and nature of such requirements for every miscellaneous unit to be permitted under Subpart X standards may be unnecessary in certain cases. In his opinion, development of such extensive data for fate and transport studies would be cost-prohibitive and time-consuming. He further suggested that a petition process could be instituted to demonstrate on a case-by-case basis an exemption from such an information requirement.

As mentioned previously, a detailed risk assessment is not necessary. However, at a minimum, the applicant must identify the potential impacts of hazardous constituents in different media. If the preliminary assessment conducted by the permit applicant indicates that releases to each of the media are possible, the permit applicant must further evaluate whether releases will occur and demonstrate ways to minimize the potential releases. This allows the permit writer to develop specific monitoring, analysis, and reporting guidelines for each particular unit.

#### C. Conforming Changes

Conforming changes are in other sections of Part 270 to accommodate the new Subpart X regulations. The Agency is not proposing to make changes to the Part 124 permit processing procedures. Issuance of permits for miscellaneous units would be subject to Part 124 in the same manner as other hazardous waste permits.

## VII. Applicability to State Hazardous Waste Management Programs

### A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, the Agency may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, the Agency retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its own hazardous waste program, rather than the Agency administering the federal program in that State. The Federal requirements no longer applied in the authorized State, and the Agency could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6927, new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. The Agency is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

### B. Effect on State Authorizations

Today's announcement promulgates standards that are not effective in authorized States because the requirements are not being imposed pursuant to HSWA. Thus, the requirements will be applicable only in those States that do not have interim or final authorization. In authorized States, the requirements will not be applicable until the State revises its program to adopt equivalent requirements under State law.

Under 40 CFR 271.21(e)(2), States that have final authorization must modify their programs to reflect equivalent requirements and by July 1, 1989, must submit the modifications to the Agency



for approval. This deadline can be extended in certain cases (40 CFR 271.21(e)(3)). Once the Agency approves the modification, the State requirements become Subtitle C RCRA requirements.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State regulations have not been assessed against the federal regulations being promulgated today to determine whether they meet the tests for authorization. Thus, a State is not authorized to carry out requirements in lieu of the Agency until the State program modification is submitted to the Agency and approved. Of course, States with existing standards may continue to administer and enforce their standards as a matter of State law.

States that submit their official applications for final authorization less than 12 months after the effective date of these standards are not required to include equivalent standards in their applications. However, they must modify their programs by the deadlines set forth in § 271.21(e). States that submit official applications for final authorization 12 months after the effective date of these standards must include standards equivalent to these standards in their applications. The requirements a State must meet when submitting its final authorization application are set forth in 40 CFR 271.3.

The Agency is precluded from issuing permits to new units in States authorized to implement RCRA in lieu of the Agency. However, 40 CFR 264.1(f)(2) provides an exception: the Agency may issue permits in authorized States if the unit was not regulated under RCRA at the time of the State's authorization and its standards for permitting the unit were promulgated after the State received final authorization. Thus, according to this provision, the Agency may issue a permit to a new facility under Subpart X in an authorized State. The Agency's permitting authority would cease, however, once the State modified its program, in accordance with § 271.21(e), to reflect the Federal Subpart X standards.

#### VIII. Effective Dates

Today's rule is effective 30 days from date of publication (in compliance with section 553(d) of the Administrative Procedures Act). EPA believes that it has a sound basis for suspending the statutory six-month effective date (RCRA Section 3010(b)) for this regulatory amendment. Section 3010(b) provides that EPA may shorten the effective date for good cause found and published with the regulation. The Agency believes that there is good cause

to suspend this six-month period because of the demand by the regulated community to apply for and obtain Subpart X permits. Currently, persons are prohibited from building new Subpart X facilities or expanding existing interim status facilities that will be covered under Subpart X. By shortening the effective date of today's rule to 30 days, the Agency enables such persons to obtain the necessary permits expeditiously. Since such permits are not required to be obtained within the six-month period, shortening the effective date will not burden the regulated community.

#### IX. Regulatory Analyses

##### A. Regulatory Impact Analysis

Under Executive Order No. 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement of a Regulatory Impact Analysis. The notice published today is not major because the rule will not result in an effect on the economy of \$100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, and innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis under the Executive Order.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order No. 12291.

##### B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each Federal agency to consider the effects of their regulations on small entities and to examine alternatives that may reduce these effects. With respect to today's rule, there is no means of anticipating exactly how many miscellaneous units, if any, will be owned and operated by small entities. In general, the Agency believes that the large amounts of capital required and the technical complexity necessary to establish safe and secure miscellaneous units will mean that larger entities will predominate. Therefore, the Agency certifies that this regulation will not have a significant impact on a substantial number of small entities.

##### C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et*

*seq.* have been assigned OMB control number 2050-0074.

#### X. Supporting Documents

In preparing the final rule, the Agency has used the following major sources of information. They have been placed in the rulemaking docket at U.S. Environmental Protection Agency, EPA RCRA Docket (sub-basement), 401 M Street, SW., Washington, DC 20460. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (202) 475-9327.

The major sources are: 1. Public Comments on the November 7, 1986, proposal to regulate miscellaneous units. All the public comments received on the proposal are included in the docket at EPA Headquarters. These comments were considered by EPA in developing today's final rule.

2. Background Document: Subpart X Comments and Responses, Versar Inc. (November 1987). This document provides the Agency's response to specific comments to the proposal.

#### List of Subjects

##### 40 CFR Part 144

Administrative practice and procedure, Hazardous materials, Waste treatment and disposal.

##### 40 CFR Part 260

Administrative practice and procedures, Confidential business information, Hazardous materials, Waste treatment and disposal.

##### 40 CFR Part 264

Hazardous material, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

##### 40 CFR Part 270

Administrative practice and procedures, Reporting and recordkeeping requirements, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Date: November 25, 1987

Lee M. Thomas,  
Administrator.

For the reasons set out in the preamble, Parts 144, 260, 264, and 270 of Chapter I of Title 40 of the Code of Federal Regulations are amended as follows.



**PART 144—UNDERGROUND  
INJECTION CONTROL PROGRAM**

1. The authority citation for Part 144 continues to read as follows:

Authority: Pub. L. 93-523, as amended by Pub. L. 95-190, Pub. L. 96-63, Pub. L. 96-502, and Pub. L. 99-339, 42 U.S.C. 300f *et seq.*

2. Section 144.31(a) is amended by adding the following sentence at the end of the paragraph to read as follows:

**§ 144.31 Application for a permit; authorization by permit.**

(a) \* \* \* A RCRA permit applying the standards of Part 264 Subpart X will constitute a UIC permit for hazardous waste injection wells for which the technical standards in Part 146 are not generally appropriate.

**PART 260—HAZARDOUS WASTE  
MANAGEMENT SYSTEM: GENERAL**

3. The authority citation for Part 260 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

4. Section 260.10 is amended by adding the definition "Miscellaneous Unit" in alphabetical order and revising the definition "Landfill" to read as follows:

**§ 260.10 Definitions.**

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under § 270.65.

**PART 264—STANDARDS FOR  
OWNERS AND OPERATORS OF  
HAZARDOUS WASTE TREATMENT,  
STORAGE, AND DISPOSAL  
FACILITIES**

5. The authority citation for Part 264 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

6. Section 264.10 is amended by revising paragraph (b) to read as follows:

**§ 264.10 Applicability.**

(b) Section 264.18(b) applies only to facilities subject to regulation under Subparts I through O and Subpart X of this part.

7. Section 264.15 is amended by revising the last sentence of paragraph (b)(4) to read as follows:

**§ 264.15 General inspection requirements.**

(b) \* \* \*

(4) \* \* \* At a minimum, the inspection schedule must include the terms and frequencies called for in §§ 264.174, 264.194, 264.226, 264.253, 264.254, 264.303, 264.347, and 264.602, where applicable.

8. Section 264.18 is amended by revising the introductory text of paragraph (b)(1)(ii) to read as follows:

**§ 264.18 Location standards.**

(b) \* \* \*

(1) \* \* \*

(ii) For existing surface impoundments, waste piles, land treatment units, landfills, and miscellaneous units, no adverse effects on human health or the environment will result if washout occurs, considering:

9. Section 264.73 is amended by revising paragraph (b)(6) to read as follows:

**§ 264.73 Operating record.**

(b) \* \* \*

(6) Monitoring, testing or analytical data, and corrective action where required by Subpart F and §§ 264.226, 264.253, 264.254, 264.276, 264.278, 264.280, 264.303, 264.309, 264.347, and 264.602;

10. Section 264.90 is amended by adding a new paragraph (d) to read as follows:

**§ 264.90 Applicability.**

(d) Regulations in this subpart may apply to miscellaneous units when necessary to comply with §§ 264.601 through 264.603.

11. Section 264.111 is amended by revising paragraph (c) to read as follows:

**§ 264.111 Closure performance standard.**

(c) Complies with the closure requirements of this subpart, including, but not limited to, the requirements of §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, and 264.601 through 264.603.

12. Section 264.112 is amended by revising paragraph (a)(2) to read as follows:

**§ 264.112 Closure plan; amendment of plan.**

(a) \* \* \*

(2) The Director's approval of the plan must ensure that the approved closure plan is consistent with §§ 264.111 through 264.115 and the applicable requirements of §§ 264.90 *et seq.*, 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, and 264.601. Until final closure is completed and certified in accordance with § 264.115, a copy of the approved plan and all approved revisions must be furnished to the Director upon request, including request by mail.

13. Section 264.114 is amended by revising the first sentence to read as follows:

**§ 264.114 Disposal or decontamination of equipment, structures, and soils.**

During the partial and final closure periods, all contaminated equipment, structures, and soils must be properly disposed of or decontaminated, unless otherwise specified in §§ 264.228, 264.258, 264.280, or 264.310, or under the authority of § 264.601 and § 264.603.

14. Section 264.117 is amended by revising paragraphs (a)(1)(i) and (a)(1)(ii) to read as follows:

**§ 264.117 Post-closure care and use of property.**

(a) (1) \* \* \*

(i) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, N, and X of this part; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, N, and X of this part.

15. Section 264.118 is amended by revising paragraphs (b)(1) and (b)(2)(i) and (b)(2)(ii) to read as follows:

**§ 264.118 Post-closure plan; amendment of plan.**



(b) \* \* \*

(1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Subparts F, K, L, M, N, and X of this part during the post-closure care period; and

(2) \* \* \*

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts F, K, L, M, N, and X of this part; and

(ii) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M, N, and X of this part; and

16. Section 264.142 is amended by revising the introductory text of paragraph (a) to read as follows:

**§ 264.142 Cost estimate for closure.**

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 264.111 through 264.115 and applicable closure requirements in §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, and 264.601 through 264.603.

17. Section 264.144 is amended by revising the introductory text of paragraph (a) to read as follows:

**§ 264.144 Cost estimate for post-closure care.**

(a) The owner or operator of a disposal surface impoundment, disposal miscellaneous unit, land treatment unit, or landfill unit, or of a surface impoundment or waste pile required under §§ 264.228 and 264.258 to prepare a contingent closure and post-closure plan, must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 264.117 through 264.120, 264.228, 264.258, 264.280, 264.310, and 264.603.

Section 264.147 is amended by revising the first sentence of paragraph (b) introductory text to read as follows:

**§ 264.147 Liability requirements.**

(b) *Coverage for nonsudden accidental occurrences.* An owner or operator of a surface impoundment, landfill, land treatment facility, or miscellaneous disposal unit that is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury

and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. \* \* \*

19. Part 264 is amended by adding Subpart X consisting of §§ 264.600 through 264.999 to read as follows:

**Subpart X—Miscellaneous Units**

Sec.

264.600 Applicability.

264.601 Environmental performance standards.

264.602 Monitoring, analysis, inspection, response, reporting, and corrective action.

264.603 Post-closure care.

264.604 through 264.999 [Reserved]

**Subpart X—Miscellaneous Units**

**§ 264.600 Applicability.**

The requirements in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units, except as § 264.1 provide otherwise.

**§ 264.601 Environmental performance standards.**

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of Subparts I through O of this part, Part 270, and Part 146 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

(a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:

(1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(2) The hydrologic and geologic characteristics of the unit and the surrounding area;

(3) The existing quality of ground water, including other sources of

contamination and their cumulative impact on the ground water;

(4) The quantity and direction of ground-water flow;

(5) The proximity to and withdrawal rates of current and potential ground-water users;

(6) The patterns of land use in the region;

(7) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

(8) The potential for health risks caused by human exposure to waste constituents; and

(9) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(b) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(1) The volume and physical and chemical characteristics of the waste in the unit;

(2) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(3) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(4) The patterns of precipitation in the region;

(5) The quantity, quality, and direction of ground-water flow;

(6) The proximity of the unit to surface waters;

(7) The current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(8) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(9) The patterns of land use in the region;

(10) The potential for health risks caused by human exposure to waste constituents; and

(11) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(c) Prevention of any release that may have adverse effects on human health or the environment due to migration of



waste constituents in the air, considering:

(1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;

(2) The effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;

(3) The operating characteristics of the unit;

(4) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(5) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(6) The potential for health risks caused by human exposure to waste constituents; and

(7) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

**§ 264.602 Monitoring, analysis, inspection, response, reporting, and corrective action.**

Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies must ensure compliance with §§ 264.601, 264.15, 264.33, 264.75, 264.76, 264.77, and 264.101 as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

**§ 264.603. Post-closure care.**

A miscellaneous unit that is a disposal unit must be maintained in a manner that complies with § 264.601 during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or ground water that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of § 264.601 during post-closure care. The post-closure plan under § 264.118 must specify the

procedures that will be used to satisfy this requirement.

**§§ 264.604 through 264.999 [Reserved]**

**PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM**

20. The authority citation for Part 270 is revised to read as follows:

**Authority:** 42 U.S.C. 6905, 6912, 6925, 6927, 6939, and 6974.

21. Section 270.14 is amended by revising paragraphs (b)(5) and (b)(13) to read as follows:

**§ 270.14 Contents of Part B: General requirements.**

\* \* \*

(b) \* \* \*

(5) A copy of the general inspection schedule required by § 264.15(b). Include, where applicable, as part of the inspection schedule, specific requirements in §§ 264.174, 264.194, 264.226, 264.254, 264.273, 264.303, and 264.602.

\* \* \*

(13) A copy of the closure plan and, where applicable, the post-closure plan required by §§ 264.112 and 264.118. Include, where applicable, as part of the plans, specific requirements in §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, 264.601, and 264.603.

\* \* \*

22. Part 270 is amended by adding a new § 270.23 to Subpart B to read as follows:

**§ 270.23 Specific Part B information requirements for miscellaneous units.**

Except as otherwise provided in § 264.600, owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units must provide the following additional information:

(a) A detailed description of the unit being used or proposed for use, including the following:

(1) Physical characteristics, materials of construction, and dimensions of the unit;

(2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of §§ 264.601 and 264.602; and

(3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of § 264.603.

(b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of § 264.601. If the applicant can demonstrate that he does not violate the environmental performance standards of § 264.601 and the Director agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures.

(d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(e) Any additional information determined by the Director to be necessary for evaluation of compliance of the unit with the environmental performance standards of § 264.601.

(The information requirements in this section have been approved by the Office of Management and Budget and assigned OMB Control Number 2050-0074.)

**§§ 270.24 through 270.29 [Reserved].**

[FR Doc. 87-27997 Filed 12-9-87; 8:45 am]

BILLING CODE 6560-50-M



THE  
HISTORY OF  
THE  
CITY OF  
NEW YORK

The history of the city of New York is a story of growth and change. From a small Dutch settlement to a global metropolis, the city has evolved through centuries of exploration, trade, and conflict. The early years were marked by the arrival of European settlers and the struggle for land and resources. The city's strategic location on the Hudson River made it a key point of contact between the East and the West. Over time, the city's population grew, and its influence expanded. The American Revolution was a pivotal moment in the city's history, as it became a center of political and military activity. The city's role in the Industrial Revolution further solidified its status as a major world power. Today, New York City is a global hub for finance, culture, and innovation, with a rich and diverse heritage that continues to shape its identity.



# Estimote

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Thursday  
December 10, 1987

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## Part V

### Department of Health and Human Services

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#### Food and Drug Administration

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##### 21 CFR Part 182

**Sulfiting Agents; Proposal To Revoke  
GRAS Status for Use on "Fresh"  
Potatoes Served or Sold Unpackaged  
and Unlabeled to Consumers; Proposed  
Rule**



**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES****Food and Drug Administration****21 CFR Part 182**

[Docket No. 81N-0314]

**Sulfiting Agents; Proposal To Revoke  
GRAS Status for Use on "Fresh"  
Potatoes Served or Sold Unpackaged  
and Unlabeled to Consumers**

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to exclude from generally recognized as safe (GRAS) status the use of sulfur dioxide, sodium sulfite, sodium and potassium bisulfite, and sodium and potassium metabisulfite (collectively known as sulfiting agents or sulfites) on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. This proposed action is based on FDA's review of currently available information which has raised significant questions about the safety of this use. In addition, the agency is specifically requesting comments on whether the agency should extend the proposal to the use of sulfites in or on canned, frozen, or dehydrated potatoes that are served or sold unpackaged or unlabeled to the consumer.

The information supporting this proposed action includes comments received in response to a proposal to affirm the GRAS status of sulfiting agents published in the *Federal Register* of July 9, 1982 (47 FR 29956); the January 31, 1985, final report of the Federation of American Societies for Experimental Biology (FASEB) on the Reexamination of the GRAS Status of Sulfiting Agents; recently published reports in the medical literature; consumer complaints received by the agency; recommendations made by FDA's ad hoc Advisory Committee on Hypersensitivity to Food Constituents; and other relevant information.

**DATE:** Comments by February 8, 1988.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Martin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

**SUPPLEMENTARY INFORMATION:****I. FDA's Concerns**

Because of recent developments, FDA has become increasingly concerned about the safety of the use of sulfiting agents on "fresh" potatoes that are intended to be sold or served unpackaged and unlabeled to the consumer. The term "fresh" potatoes applies to all sulfite-treated potato products that are not canned, frozen, or dehydrated. The specific use of sulfites on "fresh" potatoes is discussed in greater detail below.

"Fresh" potatoes usually are sold or served in the retail segment of the food industry. "Retail food establishments" consist of food service establishments, food stores, and food vending machine locations. For purposes of this document, the term "food service establishment" means any place where food is prepared and intended for individual portion service and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term covers commercial and institutional operations and includes temporary or mobile facilities.

For purposes of this document the term "food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. Included are such places as convenience stores, retail bakeries, the food section of department stores, and supermarkets. "Food vending machine" means any self-service device that, upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation.

There are three bases for FDA's concerns about the safety of the use of sulfiting agents on "fresh" potatoes. First, the agency has received reports of deaths and life-threatening responses allegedly caused by sulfite-treated "fresh" potatoes. These reported adverse responses have occurred in retail food establishments, where the potatoes were unlabeled.

Second, FDA is concerned about the significant potential for misuse of products containing sulfiting agents by retail food personnel. The levels of sulfiting agents on potatoes that are treated at the retail level are likely to vary widely and depend directly upon the care exercised by retail food

personnel in following the processing protocol.

Third, FDA's concerns stem from current lifestyle trends and practices. More Americans than ever before eat a substantial proportion of their meals in food service establishments and other such facilities (Ref. 27). This particular trend suggests that the potential for inadvertent exposure to sulfite-treated "fresh" potatoes that are unpackaged, and consequently unlabeled, is increasing and will probably continue to increase in response to consumer demand.

In light of these concerns, FDA has reviewed the GRAS status of the use of sulfites on "fresh" potatoes.

**II. Background/Regulatory History**

Sulfiting agents have a long history of use as food ingredients. Since November 20, 1959 (24 FR 9368), these food ingredients have been listed as generally recognized as safe (GRAS) for use as chemical preservatives.

In 1976, during the course of the agency's review of the safety of GRAS substances (Ref. 1), the Select Committee on GRAS Substances (the Select Committee) of FASEB issued a report on the health aspects of the use of sulfiting agents as food ingredients (Ref. 2). Subsequently, in the *Federal Register* of July 9, 1982 (47 FR 29956), FDA proposed to affirm, with specific limitations, the GRAS status of the use of certain sulfiting agents (Ref. 3).

The agency received numerous comments on the 1982 proposal. Some comments reported new uses of the sulfiting agents, significant recent expansion of some old uses, widespread use by the retail segment of the food industry, and many uses that are unlabeled. Other comments reported the possibility that a significant number of individuals may experience potentially severe allergic-type responses upon consuming foods treated with sulfiting agents. (The agency is using the term "allergic-type responses" to describe the various types of symptoms that individuals have suffered after eating sulfite-treated food. These responses in some ways resemble the responses to allergens. However, the scientific community is unsure at this time about the actual mechanism of responses elicited by the sulfite ingredient.)

The agency also received a citizen petition regarding the use of sulfiting agents in food and drugs. The petition echoed many of the concerns expressed in the comments and urged the agency to take certain regulatory actions to restrict the use of sulfites in food.



A number of the comments that FDA has received, as well as portions of the citizen petition, are relevant to the specific action being proposed in this document. The agency has taken these comments into consideration in the development of this proposed action.

The new information received in response to the 1982 proposal prompted the agency to request the establishment of an advisory committee to examine the phenomenon of allergic-type responses to the use of sulfiting agents in food.

Thus, in the *Federal Register* of April 16, 1984 (49 FR 10521), FDA announced that the Secretary of the Department of Health and Human Services had established an ad hoc Advisory Committee on Hypersensitivity to Sulfiting Agents in Foods (now the ad hoc Advisory Committee on Hypersensitivity to Food Constituents (the Advisory Committee)) to function under FDA's Center for Food Safety and Applied Nutrition. The Advisory Committee held four open meetings to review and evaluate available information and data relevant to allergic-type responses in humans that are associated with a number of food ingredients, including sulfiting agents. The Advisory Committee's views, as recorded in transcripts of committee meetings, on the uses of sulfites on potatoes, particularly with respect to continued GRAS status of "fresh" potato use, are discussed below.

The new information received in response to the 1982 proposal also prompted the agency to ask FASEB to reexamine the GRAS status of the use of sulfiting agents. FASEB established an ad hoc Review Panel on the Reexamination of the GRAS Status of Sulfiting Agents (the Panel). On July 9, 1984 (49 FR 27994), FDA announced the formation of the Panel.

The Panel evaluated recent scientific publications and new information and data submitted to FDA in response to its 1982 proposal. The Panel supplemented this information with additional materials acquired independently of FDA and conducted an open meeting on November 29, 1984, at which individuals and organizations presented their views on sulfite-related issues. On January 31, 1985, FASEB issued its final report (Ref. 4).

In that report, although finding that for the majority of the population "there is no evidence \* \* \* to suspect a hazard," the Panel concluded that for the fraction of the public that is sulfite sensitive, "there is evidence \* \* \* that demonstrates or suggests reasonable grounds to suspect a hazard of unpredictable severity to such individuals when they are exposed to

sulfiting agents in some foods at levels that are now current and in the manner now practiced."

The Advisory Committee met on December 12 and 13, 1985, to review and to evaluate available information relevant to the use of sulfiting agents in food (Ref. 29). The Advisory Committee concluded that there exists, in the available literature, acceptable evidence and information that clearly shows that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. In addition, the Advisory Committee stated that there is information to suggest that there may also be other individuals at risk.

The agency recognizes the difficulty and complexity of assessing the safe use of substances that, like numerous foods, including nuts and shellfish, are generally safe for the majority of the public but that may pose acute hazards for small subpopulations. When eating in retail food establishments, individuals who know they are sensitive to particular foods understand the need to protect themselves by avoiding consumption of those foods. As a general rule, FDA's policy is to address such circumstances by requiring package labeling that will disclose the presence of the ingredient to purchasers. This general principle is reflected in previously-issued regulations governing sulfites in packaged foods, as described below.

In the *Federal Register* of April 3, 1985 (50 FR 13306), FDA published a proposal to clarify the circumstances in which the presence of sulfiting agents must be declared on the label of foods. This proposal made clear that when a sulfiting agent is present in a detectable amount in a finished food, regardless of whether it has been directly added or indirectly added via one or more of the ingredients of the food, it is present in that food at a significant level and must be declared on the label. The proposal defined a detectable amount of sulfiting agent to be 10 parts per million. The agency issued a final regulation adopting this proposal on July 9, 1986 (51 FR 25012). Thus, the regulation is now in effect and sulfite-sensitive individuals can, by reading the label, avoid packaged food products containing sulfiting agents to which they might be sensitive.

The agency believes, however, that labeling is not likely to be an effective means of protecting sulfite-sensitive individuals from certain sulfited foods, including fruits and vegetables served or sold raw to consumers and "fresh" unpackaged potatoes that are served or sold by retail food establishments. These types of foods are traditionally

unlabeled when presented to consumers and are presented to consumers as "fresh," thereby suggesting that preservatives have not been used in their preparation. Furthermore, ingestion of these types of foods has been reported to be associated with life-threatening responses in sulfite-sensitive individuals and, in at least 10 cases, with death.

Because of these reported problems, in the *Federal Register* of August 14, 1985 (50 FR 32830), FDA proposed to amend its regulations to make clear that use of sulfites on fruits and vegetables (except potatoes) intended to be served raw or sold raw to consumers is not GRAS. The agency adopted this regulation on July 9, 1986 (51 FR 25021). This regulation became effective on August 8, 1986.

In addition, because of the health problems reported to be associated with the use of sulfites on unpackaged and unlabeled "fresh" potatoes served or sold in retail food establishments, FDA has decided that it should act with regard to this use. In this document, FDA is announcing its preliminary conclusion that a consensus no longer exists among qualified experts that the use of sulfiting agents on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to consumers is safe. To reflect this preliminary conclusion, the agency is proposing to amend Part 182.

If the agency confirms its preliminary conclusion, this use of sulfiting agents would constitute the use of an unapproved food additive. As a result, the use of sulfites on "fresh" potatoes that are served or sold unpackaged and unlabeled to the consumer would cause these potatoes to be adulterated and in violation of section 402(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342(a)(2)(C)). However, if the agency receives comments that convince FDA that a form of labeling will provide effective public health protection and prevent death and serious illness in unsuspecting consumers, the agency will reevaluate its conclusions regarding the safety of "fresh" potato use, contingent on such labeling.

### III. The Use of Sulfiting Agents on Potatoes

Sulfiting agents are added to potatoes to inhibit oxidation, to inhibit both nonenzymatic and enzymatic browning, and to maintain crispness. The amount of sulfite used varies with the desired technical effect and with any concurrent or subsequent physical processing that the potato may receive. The point at



which sulfites are applied to the potato also varies with the desired technical effect and with any concurrent or subsequent physical processing.

For purposes of this document, the term "fresh" potatoes refers to potatoes that receive a minimal amount of physical processing. The term includes potatoes that are treated with sulfites and refrigerated before cooking and those that are treated with sulfites, blanched in oil or water, and refrigerated before cooking. Sulfites are used to prevent enzymatic oxidation in both types of products and to control microbial contamination in the blanched products. Shelf life for these products is minimal, usually 2 to 10 days. Even though these products have received a chemical treatment, potato processors usually refer to them as "fresh" potatoes. The term "fresh" potatoes applies to all sulfite-treated potato products that are not canned, frozen, or dehydrated.

In addition, restaurateurs may purchase a large number of commercial products that consist principally of sulfite salts to make dipping solutions for freshly peeled or cut potatoes. Label directions for these commercial products, also referred to as "potato whiteners," advise users to dissolve a specified amount of the product in water, to dip the freshly peeled potatoes (whole or cut-up) in the solution for a stated period of time, and to drain the potatoes before refrigerating or cooking. FDA considers this use to be included in the present proposal.

Sulfiting agents are also added to canned, dehydrated, and frozen potatoes. In the canned potato industry, sulfites may be added to flume water (transport water) to prevent enzymatically mediated discoloration. In the frozen potato industry, sulfites may be added to holding tanks to prevent enzymatic oxidation of potato ends and scraps that are subsequently used to make products such as frozen hash browns. In the dehydrated potato industry, sulfiting agents are used to prevent both enzymatic and nonenzymatic browning and may be applied to the peeled or cut potato, as well as to the cooked product before drying.

Historically, the use of sulfiting agents on potatoes has been considered GRAS so long as the use is in accordance with current good manufacturing practice (CGMP). As set forth in § 182.1, CGMP restricts the quantity of sulfites added to potatoes to levels that do not exceed those reasonably required to accomplish their intended technical effect. Current practice results in residual levels of sulfites in potato products ranging from

10 parts per million (ppm) to about 1,400 ppm sulfur dioxide equivalents. (All sulfite levels in this document are total sulfites expressed as sulfur dioxide equivalents, i.e., the amount of sulfur dioxide that can be released by a sulfiting agent or a food such as potatoes that contains a sulfiting agent.) This range reflects variations in the amount of sulfites used to prepare different potato products discussed above, as well as the technologies currently used to produce this array of products. It also reflects varying degrees of care exercised by retail food personnel and manufacturers in following use instructions and processing protocols.

Data submitted to or gathered by FDA show that frozen potatoes; canned potatoes and canned potato products; dehydrated potatoes; and refrigerated potatoes, as packaged or sold, may contain 15 to 1,300 ppm; 15 to 250 ppm; 50 to 700 ppm; and 30 to 1,400 ppm sulfur dioxide equivalents, respectively (Refs. 4, 23, 24, 25, and 30). The agency has received information about ongoing research designed to establish the minimum amounts of sulfites required to achieve intended technical effects and is interested in receiving the results of these and any other investigations concerning the use of sulfites in the processing of potatoes. The agency is particularly interested in receiving reports of research involving the minimum levels of sulfites necessary to achieve intended effects; data on the level of sulfites present "as served;" the likelihood of sulfites being bound or unbound "as served" (and the health significance of bound and unbound residues that remain in "fresh" potato products); information relevant to the determination of potential "thresholds" for adverse effects; information on sulfite use by retail establishments (as opposed to "fresh" potato processors); and research for alternatives to sulfites. FDA is also soliciting comments and information on the threshold assessment prepared in connection with this proposal, in terms of the economic impact of a finding that the use of sulfiting agents on "fresh" potatoes is not GRAS, and of the economic impact of extending the proposal to other potato products (canned, frozen, or dehydrated) intended to be served unpackaged and unlabeled to consumers. Any information submitted should specify the assumptions used in evaluating alternatives to sulfite use. The agency intends to address the issue of CGMP use levels of sulfites on some potato products in a future Federal Register document that will address the

GRAS status of the use of sulfites on foods.

#### IV. Safety Review

Information currently available indicates that allergic-type responses to sulfiting agents are most likely to occur among asthmatic individuals. Although prevalence estimates vary, among the estimated 10 million asthmatic patients in the U.S. population, as many as 1 in 10 (or 1 million persons) may be sulfite-sensitive (Ref. 4). Although there is less certainty about the degree to which nonasthmatic persons may also be sulfite-sensitive, nonasthmatics have been involved in some of the cases reported in the medical literature (Refs. 7 and 28).

##### A. Consumer Complaints

Since 1982, FDA has received and placed on file at the Dockets Management Branch, complaints from approximately 1,400 consumers who reported adverse responses after eating food known or suspected to contain sulfiting agents. Among the reported adverse responses have been 26 deaths, 17 of which may have been associated with sulfites.

In approximately 12 percent of the reports, the complainant alleged that a potato product known or suspected to contain a sulfiting agent was associated with an adverse response. The spectrum of reported responses to potato products is broad, ranging from mild discomfort to very severe and even life-threatening responses. FDA investigators followed up on all reports of serious adverse effects to the extent possible, although delayed reporting limited the potential for followup in some cases.

Included among these reports are a number that are of particular relevance to this proceeding. FDA received a report about an individual, diagnosed by oral challenge as a sulfite-sensitive asthmatic patient who went into a coma for 3 weeks and suffered severe motor and neurological damage after consuming a meal in a food service establishment that included cottage fried ("fresh") potatoes. FDA's analysis of samples of the potatoes used by the food service establishment at the time of this adverse response indicated that the potatoes contained 1,410 ppm sulfur dioxide equivalents before cooking and 1,390 ppm sulfur dioxide equivalents after cooking. FDA inspection of the plant where these potatoes were processed revealed that raw potatoes were peeled by abrasion, steam-cooked with water containing sodium bisulfite (approximately 1,260 to 1,570 ppm sulfur



dioxide equivalents), sliced, and refrigerated before distribution.

A second case, reported by a Los Angeles physician, describes the death of an individual, previously diagnosed by a physician as a sulfite-sensitive asthmatic, who died after consuming a food service establishment meal that included "fresh" cottage fries. FDA's analysis of the "fresh" cottage fries received by the food service establishment at the time of the incident indicated that the product (shredded, raw, refrigerated potatoes containing sodium bisulfite) contained 96 ppm sulfur dioxide equivalents. An analysis of the same product supplied to the food service establishment about 30 days after the incident gave values of 615 and 582 ppm sulfur dioxide equivalents before and after cooking, respectively. No explanation could be given for the large difference in the findings of the two analyses.

A third report describes the death of an individual, diagnosed by oral challenge as a sulfite-sensitive asthmatic, who died after consuming a meal in a Texas military food service establishment that included hash brown potatoes. Samples of the potatoes received by the food service establishment were not obtained and analyzed for sulfite content.

A fourth report describes the death of an asthmatic individual, suspected of being sulfite sensitive, who died after consuming a food service establishment meal that included "fresh" hash brown potatoes. Los Angeles County's analysis of the "fresh" hash brown potatoes received by the food service establishment about 30 days after the incident showed that the product (shredded, raw, refrigerated potatoes treated with sodium bisulfite) contained 242 ppm sulfur dioxide equivalents.

A fifth report describes the death of an asthmatic individual suspected of being sulfite sensitive, who died after consuming "fresh" cottage-fried potatoes. The presence of sulfites on the potatoes was confirmed through analysis by the coroner's office. The Orange County coroner's office stated that sulfites in the potatoes, resulting in an asthmatic reaction, was a contributing factor in this person's death after he consumed a food service establishment meal that included "fresh" potatoes that had been sulfite treated.

Significantly, all of these reports of life threatening or fatal adverse reactions involving potato products that contain sulfites involved "fresh" potatoes.

FDA has received at least 61 reports of serious adverse reaction involving

potato products apparently associated with sulfites. These reports represent about 12 percent of the reports that FDA has evaluated and classified as associated with sulfites. A complete and accurate breakdown of these reactions by specific processing technique (i.e., "fresh," dehydrated, canned, or frozen), is not possible because the potato products cited in many of these reports were described in various ways both by complainants and persons recording complaint data.

Analysis of these 61 reports of serious adverse reaction shows that 75 percent of the allergic-type responses involving potato products (reports may involve multiple incidents) occurred in food service establishments and 10 percent occurred in the home. No specific location was listed for 15 percent.

#### B. The Panel's Report

As noted above, FDA requested early in 1984 that FASEB reexamine the GRAS status of sulfiting agents. In response, FASEB established the Panel, which considered all relevant information on the use of sulfiting agents. This information included recent scientific publications, information submitted to FDA in response to its 1982 proposal, data on the levels of sulfiting agents currently used in the processing of foods and on the levels of sulfiting agents found in various foods as consumed, new toxicological information on sulfiting agents, and data regarding the ability of sulfiting agents to cause allergic-type responses in sensitive individuals. The Panel also had access to the consumer complaints (numbering approximately 300) that FDA had received by that time. (FDA has subsequently received approximately 1,100 additional consumer complaints.) In addition, the Panel conducted an open meeting on November 29, 1984, at which individuals and representatives of organizations presented data, information, and views on a range of sulfite-related issues. The Panel made its final report available to FDA on January 31, 1985.

#### 1. Exposure

The Panel estimated that the mean dietary intake of sulfiting agents is about 10 milligrams sulfur dioxide equivalents per capita per day (0.17 milligram per kilogram body weight per day). (For purposes of comparison, 10 milligrams of sulfur dioxide equivalents are contained in a 160-gram serving of potatoes containing 62.5 ppm sulfur dioxide equivalents.) The Panel also estimated that the 99th percentile intake probably does not exceed 180 milligrams sulfur dioxide equivalents per capita per

day (3 milligrams per kilogram body weight per day). The latter figure represents regular consumption of foods containing high levels of sulfites, such as wine, shrimp, "instant" potatoes, dried apricots, and "tossed salad" (Ref. 4). (Since the publication of the Panel's report, FDA has prohibited the use of sulfiting agents in raw vegetables, such as those used in "tossed salad" (51 FR 25021).)

#### 2. Sulfite-Sensitivity Responses

The Panel reviewed the evidence for the occurrence of adverse responses in certain individuals after ingesting foods containing sulfiting agents. This evidence included numerous published findings from clinical experiments involving the exposure of both asthmatic and nonasthmatic individuals to sulfiting agents. The Panel also reviewed hundreds of reports submitted by consumers, physicians, and FDA field investigators of adverse responses occurring after consumption of foods known to contain or suspected of containing sulfiting agents. A summary of the Panel's findings follows.

a. *Types of responses.* The most frequently reported response following exposure to sulfites or sulfur dioxide has been bronchial hyperreactivity (bronchoconstriction and bronchospasm), although other responses such as shock, gastrointestinal disturbances, and urticaria/angioedema as well as flushing, hypotension, and tingling sensations have also been reported (Ref. 5).

b. *Clinical studies.* Clinical investigators have attempted to document adverse responses to sulfites. Many of the studies were conducted on individuals or groups of individuals who previously reported an adverse response to a sulfite-containing food. To quantify adequately the presence and severity of adverse sulfite-sensitivity responses, clinical investigators have exposed individuals to measured quantities of sulfiting agents. The investigators have then reported the extent of any adverse response in terms of a drop in patients' forced expiratory volume at 1 second (FEV<sub>1</sub>).

For example, in 1973, Kochen reported that a mildly asthmatic child experienced acute, transient asthmatic reactions following ingestion of freshly opened sulfite-containing foods (Ref. 6). Reports about this type of reaction were relatively rare until recently. However, challenge testing was not carried out to determine if sulfites were the causative agents in this case. Subsequently, Prenner and Stevens, in 1976, presented



a case report of anaphylaxis occurring in a 50-year old nonasthmatic male who consumed a restaurant meal that included a green salad sprayed with a product containing bisulfite (Ref. 7). Oral challenge with a total dose of 10 milligrams of sodium bisulfite (6.3 milligrams sulfur dioxide equivalents) resulted in erythema, itching, nausea, a feeling of warmth, coughing, and bronchoconstriction for about 1 hour. Lung function measurements were not made nor was a placebo administered as a part of the challenge.

In 1977, Freedman interviewed 272 asthmatic patients and reported that 30 experienced exacerbations of asthma following ingestion of orange drinks made with sodium bisulfite (Ref. 8). Fourteen of the 30 patients were challenged with a single dose of sodium metabisulfite solution containing 25 milligrams sulfur dioxide equivalents. Within 2 to 25 minutes, 8 of the 14 patients challenged gave a positive response, defined as a drop of at least 12 percent in FEV<sub>1</sub>.

In one case, Baker et al. reported bronchospasm in an asthmatic patient following ingestion of canned crabmeat salad with a vinegar dressing (Ref. 9). Oral challenge of this patient with sodium metabisulfite resulted in severe bronchospasm within 30 minutes. No reaction was observed after ingestion of the canned crabmeat alone when given as a clinical challenge. In a second patient whose asthma was provoked by wine, a single-blind oral challenge with a capsule containing 500 milligrams sodium metabisulfite (337 milligrams sulfur dioxide equivalents) caused a drop in peak respiratory flow rate from about 440 liters per minute before challenge to 100 liters per minute 30 minutes after challenge. Challenge with a placebo capsule did not produce a significant pulmonary change in the second patient.

In 1983, Schwartz reported the clinical presence of vague, general symptoms following oral challenge with metabisulfite in two patients who developed dizziness, weakness, nausea, chest tightness, tachycardia, and dyspnea associated with restaurant meals (Ref. 10). Pulmonary function studies during an oral metabisulfite challenge showed no changes.

Stevenson and Simon reported in 1981 on clinical investigations on four patients with histories of severe bronchoconstriction and anaphylaxis associated with consumption of restaurant meals (Ref. 11). Single-blind oral challenges were administered to these patients in the fasting state and while they were taking their usual medications. Placebo capsules were

administered orally every 30 minutes on the first morning of testing, and capsules containing 1, 5, 10, 25, or 50 milligrams of potassium bisulfite (0.53, 2.7, 5.3, 13.3, or 26.5 milligrams sulfur dioxide equivalents) were given sequentially every 30 minutes on the second day. FEV<sub>1</sub> values were measured at 30-minute intervals on both days.

All four patients reacted to bisulfite challenges, developing asthmatic symptoms 10 to 15 minutes after ingestion of a provocative dose (10, 25, or 50 milligrams of potassium bisulfite or 5.3, 13.3, or 26.5 milligrams sulfur dioxide equivalents, respectively). FEV<sub>1</sub> decreased 34 to 49 percent at 30 to 90 minutes after provocation. Systemic symptoms including flushing, tingling, and faintness occurred in all subjects. Subsequent oral challenge with sulfite solutions of six sulfite-sensitive asthmatic patients produced responses equal to the responses observed after oral capsule challenge but at levels approximately one-half of the provocative capsule dose (Ref. 12). Fifteen additional asthmatic patients with a history of increased asthmatic responses associated with consumption of food and beverages were serially challenged with capsules containing 5, 10, 25, and 50 milligrams sodium metabisulfite (3.4, 6.7, 16.9, and 33.7 milligrams sulfur dioxide equivalents) (Ref. 13). Only one of these patients had a significant response to the challenge. In that case, administration of 5 milligrams sodium metabisulfite (3.4 milligrams sulfur dioxide equivalents) produced a fall of 28 percent in FEV<sub>1</sub> in 2 minutes.

Capsules containing 1.4, 14, 144, or 288 milligrams potassium metabisulfite (0.94, 8.1, 82.9, or 166 milligrams sulfur dioxide equivalents) were sequentially administered to 134 patients selected from a clinic population of 1,073 patients having asthma and related allergic symptoms (Ref. 14). Decreases in FEV<sub>1</sub> values of at least 15 percent were reported in 50 of the 134 patients challenged. Based upon these challenges, Buckley et al. (1985) estimated that 4.6 percent of asthmatic patients respond to sulfite challenge (Ref. 14).

In another clinical study, lettuce treated with sodium bisulfite was employed as an oral challenge to evaluate pulmonary function of five stable, previously documented sulfite-sensitive asthmatic patients after consumption of food containing sulfiting agents (Refs. 15 and 16). Three-ounce portions of lettuce were dipped according to package instructions in a commercial vegetable freshener containing sodium bisulfite or in a

similar commercial product that did not contain a sulfite salt. Approximately 10 milliliters of solution (80 to 90 milligrams bisulfite or 50 to 57 milligrams sulfur dioxide equivalents) adhered to the lettuce after draining. All five patients showed a significant decrease in FEV<sub>1</sub> (mean decrease 44 percent, range 31 to 64 percent) after consuming the sulfite-treated lettuce. None reacted to the control lettuce. Four of the patients were described as having moderate asthmatic responses, while the fifth had a life-threatening response requiring extensive emergency treatment (Ref. 16).

Not all clinical investigations reviewed by the Panel provided equally convincing and strong evidence for an association between exposure to sulfites and adverse responses. In one study performed by Sonin and Patterson in 1985, 12 patients with idiopathic anaphylaxis, 9 of whom had a history of reactions associated with restaurant meals, and 10 control subjects were challenged with increasing oral doses of sodium metabisulfite dissolved in lemonade (Ref. 17). A similar extent of mild nonspecific irritant and subjective symptoms were reported in both groups of patients. No anaphylactic responses occurred in the 12 patients with idiopathic anaphylaxis. No bronchospasm occurred, although pulmonary function was abnormal in three of these patients.

Similarly, in a presentation made at the open meeting of the Panel, Taylor reported that oral capsule challenge of 100 non-steroid-dependent asthmatic patients with potassium metabisulfite resulted in no cases of sulfite sensitivity that could be confirmed by double-blind challenge (Ref. 18). However, single-blind challenges of 69 steroid-dependent asthmatic patients resulted in a decrease in FEV<sub>1</sub> of at least 20 percent in 14 cases. Double-blind challenges of five of these steroid-dependent patients resulted in significant decreases in FEV<sub>1</sub> in only two cases.

In another study, FEV<sub>1</sub> values did not decline and no manifestations of sulfite sensitivity were reported following administration of bisulfite to five steroid-dependent asthmatic patients without histories of responses associated with restaurant meals (Ref. 11).

Experience with oral challenge testing of sulfites has led to differing opinions concerning the extent of sensitivity responses to sulfiting agents. Based upon their clinical work with capsule and solution challenges of a group of asthmatic patients, Simon et al. (Ref. 19) and Simon (Ref. 16) estimate that 5 to 10 percent of the 10,000,000 asthmatic



patients in the United States may be sensitive to orally ingested sulfiting agents. Buckley et al. suggest a prevalence of 4.6 percent for sulfite sensitivity based on capsule challenges of selected members of a clinic population having asthma and related unusual allergic symptoms (Ref. 14). A lower prevalence of sulfite sensitivity (1 to 2 percent of the overall asthmatic population) is estimated by Taylor (Ref. 18) whose clinical results with capsule challenge suggest that sulfite sensitivity is limited to steroid-dependent asthmatic patients. Patterson and colleagues have yet to identify sulfite sensitivity among idiopathic anaphylactic patients selected from an extensive asthmatic population and consider that sulfite sensitivity may be a minor problem (Ref. 20). Although a number of individuals have been clinically tested for sulfite sensitivity by oral challenge, there is no compilation of data available on the distribution of asthmatic and nonasthmatic patients sensitive to sulfiting agents according to age, sex, race, genetic traits, ethnicity, and other variables.

c. *Individual case reports.* The Panel reviewed copies of all the consumer complaints that had been sent to FDA, which, at the time the Panel did its work, numbered about 300. These included reports by individual consumers who were both asthmatic and nonasthmatic. The Panel also reviewed some more thorough case reports submitted by physicians. Some of the consumer and physician reports included additional information from followup investigations conducted by FDA field personnel. The Panel concluded that, taken together, these reports indicate an association between adverse responses and the ingestion of meals that include foods containing sulfiting agents.

### 3. The Panel's Conclusions and Recommendations

The Panel concluded that "for the majority of the population there is no evidence in the available information on (the sulfiting agents) that demonstrates or suggests reasonable grounds to suspect a hazard to the public when these substances are used at levels that are now current and in the manner now practiced. However, it is not possible to determine without additional data whether a significant increase in consumption would constitute a dietary hazard."

The Panel also concluded that "there is evidence in the available information \* \* \* that demonstrates or suggests reasonable grounds to suspect a hazard of unpredictable severity to [sulfite-

sensitive] individuals when they are exposed to sulfiting agents in some foods at levels that are now current and in the manner now practiced."

The Panel found that in some cases, sensitive individuals have had life-threatening reactions following exposure to sulfiting agents. The Panel specifically found that "there is \* \* \* some evidence that associates consumption of some types of potatoes, processed for restaurant use and shown by laboratory analysis to contain sulfites, with life-threatening reactions in asthmatic patients." Although the Panel noted that "a cause and effect relationship between consumption of sulfite-containing foods and the onset of adverse reactions in sulfite-sensitive individuals has not been conclusively established," it also noted that "the reported associations are sufficiently numerous and the reactions sufficiently severe to deserve serious attention." The Panel further stated that "practical means need to be found to protect sulfite-sensitive individuals from the potential hazards of sulfites." The Panel concluded that "additional labeling requirements alone would not assure protection."

The Panel further concluded that "it would seem advisable to specify safe conditions of the use of sulfites in situations where levels shown to elicit adverse reactions in sulfite-sensitive individuals are likely to occur at the point of consumption." The Panel stated that "this is particularly likely when sulfite treated \* \* \* pre-cut potato products are dispensed in food service establishments or sold in grocery stores, and consumers, servers, and store personnel are not aware that sulfiting agents are present." The Panel noted that "information \* \* \* indicates that use of sulfites on fresh produce in food service establishments is being discouraged \* \* \* and that use has decreased \* \* \*." The Panel stated that "voluntary curtailment of sulfite use on such products is an important step in reducing opportunities for unsuspecting sulfite-sensitive individuals to be exposed, and discontinuance of these uses should be encouraged by appropriate use of the regulatory process."

### C. The Advisory Committee's Conclusions and Recommendations

FDA's ad hoc Advisory Committee on Hypersensitivity to Food Constituents (the Advisory Committee) met on December 12 and 13, 1985, to review and to evaluate available information on the use of sulfiting agents in food, including potatoes. The Advisory Committee concluded, in part, that "There \* \* \*

exists acceptable evidence in the literature that sulfites do cause problems \* \* \* that a review of the available information clearly shows that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites." The Advisory Committee added that "there is information to suggest that there may be other individuals at risk \* \* \*."

The Advisory Committee voted unanimously to encourage FDA to include "fresh" potatoes in its August 14, 1985, proposal (50 FR 32830) to rescind the GRAS status of sulfites on fresh fruits and vegetables. The Advisory Committee cited two reasons for rescinding the GRAS status of the use of sulfites on "fresh" potatoes. First, "there are some very strong cases of reactions that have occurred \* \* \* to 'fresh' potato products." Second, "there is adequate evidence that abusive uses of sulfites are occurring with some frequency in this particular segment of the food processing industry and that those abusive uses of sulfite in particular can represent hazards." The Advisory Committee further stated that the term "fresh" potato included sulfite-treated potato products that are not canned, dehydrated, or frozen.

In addition, the Advisory Committee stated that "sulfites are not necessary in frozen potatoes" and voted unanimously to "advocate a continued exclusion of sulfites \* \* \* from these products." In a subsequent discussion, the Advisory Committee further explained that "[the frozen potato] industry does not need sulfites and does not currently use sulfites in frozen potatoes." In addition, the Advisory Committee stated that its recommendation was intended "to avoid the possible future circumstance, however remote, that someone would decide to process frozen potatoes with 500 parts per million total sulfur dioxide residues."

The Advisory Committee also discussed its concern relative to canned and dehydrated potato products: it was concerned about these products "to the extent that they would have to be labeled if they contained sulfite and that the sulfites are necessary, [and] that the minimum amounts [of sulfites] necessary to achieve the desired effects are being used \* \* \*." The Advisory Committee further stated that "if someone discovers a way to process dehydrated potatoes without sulfites, then \* \* \* the minimum amount necessary to achieve [the] desired effects is zero, [but] that circumstance does not exist at the present time."



## V. Discussion

### A. Proposed Action

Under 21 U.S.C. 321(s), for the use of a substance to be GRAS, there must be a consensus among qualified experts that that use has been shown to be safe. In this proposal, FDA is announcing that based on the data and information that have become available to it since the publication of its July 9, 1982, proposal on sulfiting agents; on the conclusions that the Panel reached in its 1985 reexamination of the GRAS status of sulfites; and the deliberations of the Advisory Committee; and on the agency's evaluation of the Panel's report and of the statements of the Advisory Committee, the agency has tentatively concluded that there is no longer a basis to find that the use of sulfites on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to consumers is GRAS. FDA has reached this tentative conclusion based on the following factors and considerations:

1. There are people within the U.S. population whose number, according to some estimates, may be as high as 1 million, who are sulfite-sensitive and who may suffer allergic-type responses upon ingesting foods treated with sulfiting agents.

2. The responses of susceptible individuals to substances to which they are sensitive are often unpredictable and can be extremely severe, even fatal. In the case of sulfite-treated "fresh" potatoes, the reported responses have included death and permanent motor and neurological damage. These incidents represent evidence that the use of sulfites on "fresh" potatoes has resulted in harm. Moreover, potatoes are cited in about 12 percent of the consumer complaints of serious adverse responses to sulfites received by FDA (Ref. 26), second only to fresh fruits and vegetables. An accurate breakdown of whether the potatoes were "fresh," canned, frozen, or dehydrated is not possible for all reported responses because of the manner in which the complainants described the potato products.

3. The declaration of the presence of sulfites on the label of packaged foods that contain these ingredients provides an effective means by which sulfite-sensitive individuals can avoid such sulfite-treated foods. However, the agency is not aware of any effective means by which sulfite-sensitive individuals can be advised of the presence of sulfites on unpackaged "fresh" potatoes served or sold in retail food establishments.

(i) Potato products in many retail food establishments are normally presented

to consumers in a finished, cooked form, without any labeling and without any indication of how the potato was processed. Finished, cooked potato products are not distinguishable based on their method of processing. For example, the common french fry may be made from truly fresh potatoes (i.e., no added preservatives), "fresh" potatoes as defined in this document, frozen potatoes, or even dehydrated potatoes. Thus, consumers in retail food establishments are presented with potato products that may contain sulfite residues. However, they are not presented with any ready means to determine whether sulfite residues are present on these potato products.

(ii) FDA believes that labeling by such means as menu statements or signs in retail food establishments is not a practical alternative. Labeling is not customarily used in many of these establishments, and a labeling requirement would be extremely difficult to enforce at any level of government, be it Federal, State, or local. At one time, FDA encouraged the States to require retail food establishments to place signs at their salad bars advising consumers of their use of sulfites. This effort proved to be unsatisfactory.

Another labeling alternative, however, is that processors who supply potatoes to retail food establishments could be required to clearly label the potatoes as containing sulfites, so that employees could provide information to consumers who know that they are sulfite sensitive and inquire of the establishment's employees whether or not sulfites are used. The agency also recognizes that labeling may be feasible in some circumstances, for example, on vending machines that already carry descriptive labeling or in controlled institutional settings. The agency invites comments on the practicality and desirability of the types of labeling approaches discussed above.

4. The levels of sulfiting agents on potatoes that are treated in retail food establishments are likely to vary widely and will depend upon the care exercised by retail food personnel in following use instructions for sulfite application. Thus, a significant potential exists for misuse of products that contain sulfiting agents and are used to treat potatoes.

5. Given the difficulty of informing consumers of the use of sulfites on "fresh" potatoes served in retail food establishments and the possibility for misuse of sulfites on the potatoes served in these establishments, it is not surprising that there is strong evidence that the use of sulfites on "fresh" potatoes served in retail establishments

has resulted in severe allergic-type responses.

6. The concern created by these allergic-type responses apparently has undermined any consensus that may have existed within the scientific community that the use of sulfites on "fresh" potatoes that are unpackaged and unlabeled is GRAS. The Panel and the Advisory Committee, two groups composed of experts qualified by scientific training and experience to evaluate the safety of the use of sulfites, both expressed concerns about the use of these ingredients on potatoes:

(i) The Panel found that there is an association between the consumption of some types of potatoes and severe allergic-type responses. The Panel expressed a particular concern about the dispensing of sulfite-treated pre-cut potatoes in food service establishments or grocery stores without labeling to advise consumers of the presence of sulfites.

(ii) The Advisory Committee also expressed concerns about the use of sulfites on potatoes. First, it encouraged FDA to rescind the GRAS status of the use of sulfites on "fresh" potatoes. The Advisory Committee cited evidence that abusive use of sulfites occurs with some frequency in this segment of the food industry (Ref. 29, p. 360). Second, the Advisory Committee stated that it was not concerned about sales to consumers of dehydrated and canned potatoes, so long as those products are labeled when they contain sulfites (Id., p. 410). Finally, the Advisory Committee expressed its belief that sulfites are not necessary on frozen potatoes (Id., pp. 363; 410-411).

7. FDA has carefully considered the concerns and recommendations of the Panel and the Advisory Committee and has made the following tentative determinations:

(i) FDA has tentatively determined that a consensus does not exist that the use of sulfites on "fresh" potato products that are intended to be served in food service establishments, food stores, or vending machines without packaging and without labeling is safe. This tentative determination is based on the recent reports of severe, life-threatening responses in asthmatic individuals who have consumed sulfited "fresh" potato products in food service establishments; the Panel's expressed concern about the safety of sulfited pre-cut potatoes dispensed without labeling in retail food establishments; and the Advisory Committee's view that the use of sulfites on "fresh" potatoes is not GRAS.

(ii) FDA has found that, in spite of the Advisory Committee's belief that



sulfites are not used or necessary on frozen potatoes, these ingredients are being used in this type of processing. New information submitted to FDA indicates that some processors may be using sulfites at fairly high levels in frozen potatoes. Notably, FDA received a survey of potato products compiled by the Department of Health Services of California (Ref. 23) in 1986, which confirms that sulfites are used in a variety of frozen potato products. This survey of 151 samples of potatoes included 64 samples of frozen potato products, about half (33) of which contained sulfite residues. These residues ranged from 14 to 1,282 parts per million total sulfur dioxide equivalents. The agency is aware, however, that many processors have discontinued use of sulfites in their frozen potato products, a fact that gives support to the Advisory Committee's views and raises questions as to whether sulfites are necessary for this type of product. In addition, restaurateurs may use frozen potato products as substitutes for the "fresh" potatoes they now use, should the agency take final action confirming its tentative determination that the use of sulfites in "fresh" potato products intended to be served without packaging or labeling is not GRAS. Although the Advisory Committee did not include frozen potatoes in its recommendation to revoke GRAS status for "fresh" potatoes, it did advocate "continued exclusion of sulfites from these products" (Ref. 29, pp. 408-410). Given the potential difficulty in distinguishing between frozen products and other types of potatoes in the restaurant setting, the Advisory Committee's views, and a potential increase in exposure to fairly high levels of sulfites, as reported in the California data, as a result of substitution of frozen for "fresh" potatoes, the agency is particularly concerned about this use. Therefore, FDA is specifically requesting data on current use of sulfites in frozen potatoes and soliciting comments on the propriety of extending the proposal to exclude the use of sulfites on unpackaged and unlabeled frozen potatoes from GRAS status.

(iii) FDA recognizes that an argument can be made that a consensus does not exist that the use of sulfites in or on canned, dehydrated, or frozen potato products that are intended to be served in food service establishments, food stores, or vending machines without packaging and without labeling is safe. This argument would be based on the general information regarding reported allergic-type responses to the use of

sulfites in or on a variety of potato products and the fact that the Advisory Committee's discussions indicated that members might be concerned about the safe use of sulfited canned, dehydrated, and presumably frozen potatoes if such products were presented to consumers without labeling.

(iv) As a result, the agency is (1) proposing to amend Part 182 to exclude the use of sulfites on "fresh" potatoes that are intended to be sold or served unpackaged and unlabeled to consumers from those uses that are GRAS under the regulations for the sulfiting agents, and (2) requesting comments on whether to extend the scope of the proposed action to include the use of sulfites in or on canned, dehydrated, or frozen potatoes that are intended to be sold or served unpackaged and unlabeled to consumers.

(v) FDA believes that the action that it is proposing to take is consistent with the observations of the Panel and the Advisory Committee.

8. FDA has excluded from this proposed action potatoes that are presented to the consumer in a packaged and labeled form, because individuals who are sulfite sensitive can avoid inadvertent exposure to sulfites by reading the ingredient list on these products. As noted above, FDA believes that the new labeling requirements for packaged sulfite-treated food published in the *Federal Register* of July 9, 1986 (51 FR 25012), adequately address any potential allergic-type problems that may be caused by this exclusion. The agency intends to further address the GRAS status of the use of sulfites on potatoes that are served or sold to the consumer in a labeled package in a future *Federal Register* document.

#### B. Prior Sanctions

The agency recognizes that the use of sulfites on potatoes predates 1958, and that the use of one or more of the sulfiting agents on one or more specific potato products may be the subject of a prior sanction. FDA acknowledged one such prior sanction in its July 9, 1982, proposal on sulfiting agents (47 FR 29956). In that proposal, FDA stated that the use of sodium bisulfite as a dip to prevent darkening of fresh peeled, uncooked potatoes was prior-sanctioned (Ref. 21).

FDA has reviewed all available information related to the health effects of the use of sulfites on "fresh" potatoes. The agency believes that, even though a prior sanction may exist for the use of sulfiting agents as a dip for fresh peeled potatoes, reliance on that sanction would likely not be a sufficient justification to continue this use of

sulfiting agents. Having considered the recent reports of serious allergic-type responses to sulfited "fresh" potatoes including dipped potatoes; the fact that the incidents occurred when the potatoes were not labeled; and the other information discussed above, FDA believes that these reports and information demonstrate that the use of sulfiting agents as a dip for "fresh" potatoes may render the potatoes injurious to health if these potatoes are not packaged and labeled.

Therefore, FDA tentatively concludes that this use of sulfiting agents on "fresh" potatoes intended to be served or sold unpackaged and unlabeled to consumers would cause the food to be adulterated within the meaning of section 402(a)(1) of the act. On this basis, in accordance with 21 CFR 181.5(c), FDA is proposing to revoke the prior sanction for the use of sulfites on "fresh" potatoes. FDA requests that any other claimed prior sanctions for the use of sulfites on potatoes be brought to its attention as comments on this proposal. The agency will consider these claimed prior sanctions based on the available evidence.

#### VI. Other Relevant Information

##### A. General Comments and Submissions

FDA has received a number of submissions and comments from industry, medical professionals or associations, government officials or agencies, and many consumers regarding the use of sulfites on potatoes since the publication of its July 9, 1982, proposal to affirm the GRAS status of certain sulfiting agents with specific limitations. In addition, agency personnel have met with representatives of the "fresh" potato industry and the dehydrated potato industry on various occasions since August 1985. Memoranda of these meetings have been added to the public record on sulfiting agents.

The agency has taken all these submissions and comments into consideration in the development of this proposed regulation.

##### B. Citizen Petition (Docket No. 82P-0343)

On October 28, 1982, the agency received a citizen petition signed by three consumers, a physician, a scientist, and representatives of the Center for Science in the Public Interest (CSPI), Washington, DC. The petitioners requested that FDA amend certain food standards and rescind certain food additive regulations, prior sanctions, and advisory opinions that permit the



use of sulfiting agents at a level of more than 350 micrograms per serving. The petitioners also requested that FDA require warning labels on any food products in which sulfiting agents had to be used in amounts greater than 350 micrograms per serving to perform essential public health functions.

In a supplement to this petition, submitted on March 15, 1983, the petitioners requested that FDA withdraw the prior sanction permitting the use of sodium bisulfite on potatoes and institute appropriate enforcement action against certain products labeled for use on potatoes, because potatoes are a significant source of thiamine (vitamin B<sub>1</sub>). The petitioners submitted data to support their claim that potatoes are a significant source of thiamine, and that products instructing users to apply sulfiting agents to potatoes are misbranded. The petitioners suggested that FDA issue an appropriate regulatory letter to all manufacturers of such products.

FDA has considered the requests made in the CSPI petition and its supplement that relate to the use of sulfiting agents on potatoes. (In the July 9, 1986, final rule, FDA responded to the petitioners' request that relates to the use of sulfites in salad bars. The agency will respond to the other issues raised in the petition in another *Federal Register* document.)

FDA acknowledges that it has never authorized the use of sulfites on foods that are recognized as a significant source of thiamine. Foods that can serve as significant sources of vitamins, including thiamine, are defined in 21 CFR 101.9(c)(7)(v) as those that supply at least 10 percent of the minimum daily requirement for vitamins, which in the case of thiamine is 0.15 milligram.

FDA has calculated the amount of thiamine present in an average serving (based on food consumption data of the U.S. Department of Agriculture 1977-1978 Nationwide Food Consumption Survey and food composition data in revised Agriculture Handbook No. 8-11) of seven different potato products, including baked potatoes, boiled potatoes, creamed-type potato casseroles, mashed potatoes, home-fried potatoes, french-fried potatoes, and potato salad. The amount of thiamine present in an average serving of these dishes, as consumed, ranges from 0.036 milligram in creamed-type potato casseroles to 0.15 milligram in boiled potatoes (Ref. 22). The median amount of thiamine per serving for these potato dishes is 0.11 milligram, and the average amount of thiamine is 0.10 milligram.

On the basis of these data, the agency has determined that although one

specific potato dish (boiled potatoes) meets the criteria for a significant source of thiamine, the great majority do not. Given this fact and the fact that most individuals eat a variety of potato dishes rather than a steady diet of boiled potatoes, FDA tentatively concludes that potatoes are not a significant source of thiamine.

Thus, FDA tentatively concludes that it cannot, on the basis of thiamine content alone, grant the petitioners' request that it withdraw the prior sanction for the use of sodium bisulfite on potatoes, or the petitioners' request that the agency undertake an enforcement action against products containing sulfiting agents that are labeled for use on potatoes.

Nonetheless, FDA has tentatively concluded, on the basis of other information discussed above, that it is necessary for the agency to take action against the use of sulfiting agents on "fresh" potatoes intended to be served or sold unpackaged and unlabeled to consumers. It is proposing that action in this document. FDA is proposing to grant the petitioners' requests to the extent that the action sought in the requests is the action proposed in this document. Moreover, the agency is also proposing in this document to revoke the prior sanction for the use of sulfites in dipping solutions for potatoes that are served or sold unpackaged and unlabeled to consumers.

Should this proposed rule become final, the use of sulfites on "fresh" potatoes intended to be served or sold unpackaged and unlabeled to consumers would cause the food to be adulterated within the meaning of section 402 of the act. In addition, the agency is specifically requesting comments on whether to extend the scope of the proposed action to include the use of sulfites in canned, dehydrated, or frozen potatoes that are intended to be sold or served unpackaged and unlabeled to consumers.

## VII. Conclusions

This proposed rulemaking announces that currently available information has created significant questions about whether the use of sulfiting agents on "fresh" potatoes that are served or sold unpackaged and unlabeled to consumers is safe. As a result, FDA believes that the use of sulfites on "fresh" potatoes that are served or sold in this manner to consumers can no longer be considered to be GRAS. Therefore, the agency is proposing in this document to amend Part 182 to exclude the use of sulfiting agents on unpackaged and unlabeled "fresh" potatoes from the uses of sulfiting agents that are considered to be

GRAS. Such use of sulfiting agents would constitute the use of an unapproved food additive and would, therefore, cause any food to which they have been added to be adulterated and in violation of section 402(a)(2)(C) of the act. The comment period for this proposal is 60 days.

The agency requests comments from all interested persons on all relevant issues relating to this proposal. The agency especially seeks comments relating to the following issues:

1. Whether FDA should extend the scope of the proposed action to include the use of sulfites in or on canned, dehydrated, or frozen potatoes that are intended to be sold or served unpackaged and unlabeled to consumers;

2. Additional evidence concerning whether there is an association between exposure to sulfite-treated potatoes and allergic-type responses in sulfite-sensitive individuals;

3. Scientific evidence pertaining to the safe conditions of use of sulfiting agents on potatoes; and

4. Practical alternatives to the use of sulfiting agents on potatoes.

In commenting on whether FDA should extend the scope of the proposed action to include the use of sulfites on canned, dehydrated, or frozen potatoes, interested persons should provide views and information on whether sulfites can be safely used on potatoes that are served unpackaged but with appropriate labeling. The agency would appreciate comments on whether labeling would be possible and effective in nonrestaurant food service establishments, such as cafeterias and military mess halls.

## VIII. Economic Impact

FDA has examined the economic impact of a finding that the use of sulfites on "fresh" potatoes intended to be served or sold unpackaged and unlabeled to the consumer is not GRAS. FDA finds that the benefit of this regulation will be to prevent allergic-type responses from consumption of sulfite-treated potatoes (unpackaged and unlabeled) in retail food establishments in a sulfite-sensitive population that may number up to 1,000,000 people. Among the possible adverse responses is death, as demonstrated by the fact that there have been four reported deaths allegedly associated with the ingestion of sulfite-treated potato products in retail food establishments in the last several years. However, it is not possible at this time to estimate the savings in health costs from this action.



In developing an economic threshold assessment for this document, FDA has relied on extensive input from diverse sources, including input provided on behalf of the National Coalition of Fresh Potato Processors. The cost impact of this rule will depend on: (1) The level of use of sulfited "fresh" potatoes by the restaurant industry at the time this regulation becomes effective and (2) the adjustments in demand for various potato products resulting from independent decisions by thousands of restaurants and institutional food service establishments as they seek the best substitute for sulfited "fresh" potatoes in their individual circumstances.

Given forces now at work—avoidance of adverse publicity, concern about liability exposure, and continued publication of scientific literature about sulfite hazards—some shift away from sulfited "fresh" potatoes, even absent this regulation, appears to be likely, at least among major, corporate restaurateurs. Gauging the extent of such voluntary displacement, and its speed, is difficult.

With regard to the second factor, restaurants and institutional food service establishments have a variety of sulfite-free options. Some are labor intensive (e.g., peel their own or more frequent delivery of precuts), others are technology dependent (e.g., chemical substitutes), and still others are dependent on consumer tastes and preferences (e.g., baked or frozen alternatives). The restaurant industry will likely choose a mixture of these options depending on individual restaurant circumstances. Cost differences among these options may vary from restaurant to restaurant. They may be zero in some situations, but will more than likely range between \$0.02 to \$0.04 per pound for alternative chemicals and more frequent delivery schedules.

Total cost impacts are estimated to range between \$2 and \$18 million, and placement within this range is primarily dependent on the rate of voluntary conversion to sulfite substitutes of uncertain cost and effectiveness. Despite the uncertainty in this estimate, however, the agency concludes that this rule does not constitute a major rule as defined by Executive Order 12291 or require a Regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980.

A threshold assessment for this proposed rule is on file in the Dockets Management Branch (address above), and FDA invites comments on the economic impact of the actions proposed in this document.

The agency also requests substantive data concerning this proposed action or other regulatory options to be used in a regulatory impact analysis or a regulatory flexibility analysis. After the agency has received comments and had an opportunity to evaluate the relevant data, the agency will prepare a regulatory impact analysis or a regulatory flexibility analysis, if appropriate. The agency will provide an opportunity for comment on any economic impact documents it prepares, before it proceeds to a final rule.

#### IX. Environmental Impact

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

#### X. References

The following references have been placed on display in the Dockets Management Branch and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Select Committee on GRAS Substances. "Insights on Food Safety Evaluation." Life Sciences Research Office, Federation of American Societies for Experimental Biology, prepared under FDA contract 223-81-2394, December 1982, and references cited therein.
2. Select Committee on GRAS Substances. "Evaluation of Health Aspects of Sulfiting Agents as Food Ingredients." Life Sciences Research Office, Federation of American Societies for Experimental Biology, prepared under FDA contract 223-75-2004, 1976.
3. "Sulfiting Agents; Proposed Affirmation of GRAS Status with Specific Limitations; Removal from GRAS Status as Direct Human Food Ingredient," 47 FR 29956; July 9, 1982.
4. Select Committee on GRAS Substances. "The Reexamination of the GRAS Status of Sulfiting Agents." Life Sciences Research Office, Federation of American Societies for Experimental Biology, prepared under FDA contract 223-83-2020, January 28, 1985.
5. National Institute of Allergy and Infectious Diseases, American Academy of Allergy and Immunology, Committee on Adverse Reactions to Foods. "Adverse Reactions to Foods," NIH publication No. 84-2442, 1984, 220 p. (available from U.S. Government Printing Office, Washington, DC).

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7. Prenner, B. M., and J. J. Stevens. "Anaphylaxis after Ingestion of Sodium Bisulfite." *Annals of Allergy*, 37:180-182, 1976.

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13. Koepke, J. W., and J. C. Selner. "Sulfur Dioxide Sensitivity." *Annals of Allergy*, 48:258, 1982 (Abstract).

14. Buckley, C. E., III, H. A. Saltzman, and H. O. Sieker. "The Prevalence and Degree of Sensitivity to Ingested Sulfites." *Journal of Allergy and Clinical Immunology*, 1985 (Abstract). In press.

15. Howland, W. C., and R. A. Simon. "Restaurant-Provoked Asthma: Sulfite Sensitivity." *Journal of Allergy and Clinical Immunology*, 1985 (Abstract). In press.

16. Simon, R. A. Oral presentation given at the open meeting of the Ad Hoc Review Panel on the Reexamination of the GRAS Status of Sulfiting Agents held November 29, 1984, Bethesda, MD.

17. Sonin, L., and R. Patterson. "Metabisulfite Challenge in Patients with Idiopathic Anaphylaxis." *Journal of Allergy and Clinical Immunology*, 75:67-69, 1985.

18. Taylor, S. L. Oral presentation given at the open meeting of the Ad Hoc Review Panel on the Reexamination of the GRAS Status of Sulfiting Agents held November 29, 1984, Bethesda, MD.

19. Simon, R. A., L. Green, and D. D. Stevenson. "The Incidence of Ingested Metabisulfite Sensitivity in an Asthmatic Population." *Journal of Allergy and Clinical Immunology*, 69:118, 1982 (Abstract).

20. Patterson, R., Northwestern University, Evanston, IL. Letter plus attachments, dated July 9, 1984, to S. A. Anderson, Federation of American Societies for Experimental Biology, Bethesda, MD.

21. Letter from F. Leslie Hart, Chief, Boston District, FDA, to W. B. Farnham, Chief, Chemist, State Department of Health, Vermont, dated September 19, 1952.

22. Memorandum from John E. Vanderveen, Director, Division of Nutrition, to John Taylor, Director, Division of Regulatory Guidance. "Thiamine Content of Potato Products in Reference to Sulfiting Agents," January 7, 1986.

23. Fan, A. M., S. A. Book. "The Potential Public Health Impact of the Use of Sulfiting



Agents in Potato Products: An Evaluation with Specific Reference to Sensitivity Reactions." A report to the Food and Drug Branch, Department of Health Service (California) from the Community Toxicology Unit, May 1986.

24. Memorandum from Sandra N. Whetstone to the Record, "Update on California Sulfite Incident," April 13, 1984, Food and Drug Administration, Washington, DC.

25. Recall No. F-674-6, "Lite Canned Mixed Vegetables April 18, 1986, Food and Drug Administration, Washington, DC.

26. Memorandum from the Health and Injury Related Surveillance Subprogram, Postmarketing Surveillance System to the Health Hazards Evaluation Board, "Quarterly Report on Adverse Reactions Associated With Sulfiting Agents," October 1, 1986, Food and Drug Administration, Washington, DC.

27. United States Department of Agriculture, "Nationwide Food Consumption Survey 1977-78," Report No. H-6, Attached Tables of Dollar Expenditures.

28. Habenicht, H.A., et al., "Sensitivity to Ingested Metabisulfites, Cause of Bronchospasm and Urticaria," *Immunology and Allergy Practice*, 5:243-245, 1983.

29. Transcript, Meeting of the ad hoc Advisory Committee on Hypersensitivity to Food Constituents, held December 12 and 13, 1985, Washington, DC.

30. Finne, G., "Effect of Treatment Conditions on the Residual Sulfite Concentration and Shelf-Life of Fresh Raw Peeled Potatoes," ASMI, Submitted to the National Coalition of Fresh Potato Processors, January 15, 1987.

## XI. Comments

Interested persons may, on or before February 8, 1988, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

## List of Subjects in 21 CFR Part 182

Food ingredients, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that Part 182 be amended as follows:

## PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR Part 182 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended [21 U.S.C. 321(s), 342, 348, 371]; 21 CFR 5.10 and 5.11.

2. In § 182.3616 by revising paragraph (c) to read as follows:

### § 182.3616 Potassium bisulfite.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats; in food recognized as a source of vitamin B<sub>1</sub>; on fruits or vegetables intended to be served raw to consumers or sold raw to consumers, or to be presented to the consumer as fresh; and on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. For purposes of this paragraph the term "fresh" potatoes applies to any form of potato other than frozen, canned, or dehydrated potatoes.

3. In § 182.3637 by revising paragraph (c), to read as follows:

### § 182.3637 Potassium metabisulfite.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats; in food recognized as a source of vitamin B<sub>1</sub>; or fruits or vegetables intended to be served raw to consumers or sold raw to consumers, or to be presented to the consumer as fresh; and on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. For purposes of this paragraph the term "fresh" potatoes applies to any form of potato other than frozen, canned, or dehydrated potatoes.

4. In § 182.3739 by revising paragraph (c), to read as follows:

### § 182.3739 Sodium bisulfite.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats; in food recognized as a source of vitamin B<sub>1</sub>; on fruits or vegetables intended to be served raw to consumers or sold raw to consumers, or to be presented to the consumer as fresh; and on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. For purposes of this paragraph the term "fresh" potatoes applies to any form of potato other than frozen, canned, or dehydrated potatoes.

5. In § 182.3766 by revising paragraph (c), to read as follows:

### § 182.3766 Sodium metabisulfite.

(c) *Limitations, restrictions, or explanation.* This substance is generally

recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats; in food recognized as a source of vitamin B<sub>1</sub>; on fruits or vegetables intended to be served raw to consumers or sold raw to consumers, or to be presented to the consumer as fresh; and on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. For purposes of this paragraph the term "fresh" potatoes applies to any form of potato other than frozen, canned, or dehydrated potatoes.

6. In § 182.3798 by revising paragraph (c), to read as follows:

### § 182.3798 Sodium sulfite.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats; in food recognized as a source of vitamin B<sub>1</sub>; on fruits or vegetables intended to be served raw to consumers or sold raw to consumers, or to be presented to the consumer as fresh; and on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. For purposes of this paragraph the term "fresh" potatoes applies to any form of potato other than frozen, canned, or dehydrated potatoes.

7. In § 182.3862 by revising paragraph (c), to read as follows:

### § 182.3862 Sulfur dioxide.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats; in food recognized as a source of vitamin B<sub>1</sub>; on fruits or vegetables intended to be served raw to consumers or sold raw to consumers, or to be presented to the consumer as fresh; and on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer. For purposes of this paragraph the term "fresh" potatoes applies to any form of potato other than frozen, canned, or dehydrated potatoes.

Frank E. Young,

Commissioner of Food and Drugs.

Otis R. Bowen,

Secretary of Health and Human Services.

Dated: April 9, 1987.

Editorial Note: This document was received at the Office of the Federal Register December 7, 1987.

[FR Doc. 87-28291 Filed 12-9-87; 8:45 am]

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# Final Report

Thursday  
December 10, 1987

## Part VI

### National Commission on Libraries and Information Science

Glenerin Declaration; Statement of Policy;  
Notice



# NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

## Glenierin Declaration; Statement of Policy

**AGENCY:** U.S. National Commission on Libraries and Information Science.

**ACTION:** Notice to the public.

### Background

The Glenierin Declaration which follows is a tri-national statement which resulted from a series of meetings of information specialists from Canada, the U.K. and the U.S., convened by the Institute for Research on Policy (Canada), the British Library (U.K.) and the National Commission on Libraries and Information Science (U.S.). The most recent of these meetings was held at the Glenierin Inn in Mississauga, Ontario, Canada.

The overall aims of the meetings were:

- To foster an improved understanding of the role of information in the economy and society;
- To develop an agenda of public policy issues and initiatives aimed at maximizing the benefits to society of the changing role and character of information and the information industry.

A document in support of this declaration will be issued later in 1988.

## The Glenierin Declaration Toward a Coordinated Policy Agenda In Response to the Changing Role of Information in the Economy

### Preamble

We have moved from an industrial to an information age, where the efficient exploitation of information as an economic resource and a sector of production has become crucial to the achievement of economic growth. In the countries of Canada, the United Kingdom, and the United States the production, distribution and use of information have become matters of strategic economic, social and political importance. To ensure that the benefits of the information age are fully realized, it is necessary to create and maintain an environment which provides for the open and unrestricted exchange of information. Such open access, though, must be consistent with the protection of individual rights, appropriate economic incentives, and the sovereignty concerns of each nation as determined by their unique circumstances.

For individual citizens and society at large to profit equitably from this development:

- We must increase our understanding of the transformation now taking place;
- We must foster partnerships amongst all segments of the information sector—workers, information creators, processors, distributors, government and users;
- We must seek mechanisms for the orderly sharing of information among our three nations and eventually any others who may wish to participate;
- We must work towards a coordinated policy response among our three countries to ensure that all constituencies are appropriately represented in the decision-making process which will determine the character of the information society.

### Guidelines and Recommendations

Consistent with these principles the following guidelines and recommendations are proposed as initial areas to be endorsed and acted upon:

- Insofar as present methods of measurement and assessment of information resources are inadequate, new, standardized methods are required for the evaluation of information as an economic resource to be managed and for a proper understanding of information as a productive sector of the economy; these standard measures are essential tools for economic decision-making and negotiations, both national and international; and the needs of all constituencies comprising the information sector must be taken into account.

It is recommended that,

1. A tri-national program be established urgently with the task of developing standardized measures of the impact of information resources on the economy.
2. The current round of GATT negotiations, which includes trade in services, be recognized as one important avenue for developing such standardized measures; that the tri-national program work in concert with the GATT round; and that the views of all segments of the information sector (creators, processors and users) be taken into account by the GATT negotiating teams of the three countries.
- Insofar as barriers may exist to the open and unrestricted flow of information which are not consistent with the objectives of individual rights or societal needs, a tri-national review of any barriers which might impede information transfer is required so that those which cannot be justified can be removed, it is recommended that,
3. Telecommunications providers be encouraged to create the facilities for enhanced information exchange among

households, academic and research groups, libraries, business and government; that an effort be made to require the adoption of common communications standards for on-line information systems; and that the development of open network systems, including the possibility of common carrier gateway services be encouraged so long as these do not in any way restrict the network access rights of other parties.

4. The application of intellectual property law be reexamined with a view to removing unreasonable impediments to openness; a major area for consideration is that of secondary or derivative information (abstracts, indexes, etc.), especially in the area of scientific, technical and medical information.

• Insofar as the application of technology to information systems and services creates new dynamics in the workplace which must be understood and addressed by both public and private sector decision-makers; the ability of individuals to acquire and apply appropriate information skills and resources has become an indispensable requirement of functional literacy; and new initiatives must be implemented to maintain currency in skills, to provide retraining where displacement occurs, and to ensure avenues of entry to, and mobility within, the workforce, it is recommended that,

5. Educational policy be reviewed in the three countries both to develop and define the changing educational requirements of the workforce and of society, particularly with respect to the need for re-organizing the existing institutional structure of continuing education or life-long learning in both the public and private sectors.

6. Increased public awareness of the role of information and the skills and resources required for its effective utilization be fostered through inclusion of the teaching of such skills as a core component of the curriculum at the primary and secondary school levels and through the appropriate enhancement of the educational role of the library system in the three countries.

- Insofar as the aims of a democratic society are best achieved in a climate of open information and participation in the decision-making process by all parties involved; and the government has an essential and inescapable social and economic role as a key partner in the information society, it must serve as a broker, facilitator, information producer, information provider, educator, and arbiter for the



disadvantaged and as guardian of the public good, it is recommended that,

7. The national government in each of the three countries acknowledge its responsibilities to provide a coherent framework for the development of information policy which takes due account of the international character of the issues and the need for all segments of the information sector to be represented and heard in the process.

8. The government explicitly recognize its responsibility to maintain public support for the creation and provision of certain information, through such means as the library system in each country, recognizing that there is a minimum level of information which must be available to, and accessible by, all citizens regardless of means.

Comments from the public are welcome, and should be submitted to: Vivian J. Arterbery, Executive Director,

U.S. National Commission on Libraries and Information Science, 1111 18th Street, NW., Suite 310, Washington, DC 20036, 202-254-3100.

For further information contact David R. Hoyt at the above address.

Dated: December 7, 1987.

**David R. Hoyt,**

*Deputy Director, U.S. National Commission on Libraries and Information Science.*

[FR Doc. 87-28413 Filed 12-9-87; 8:45 am]

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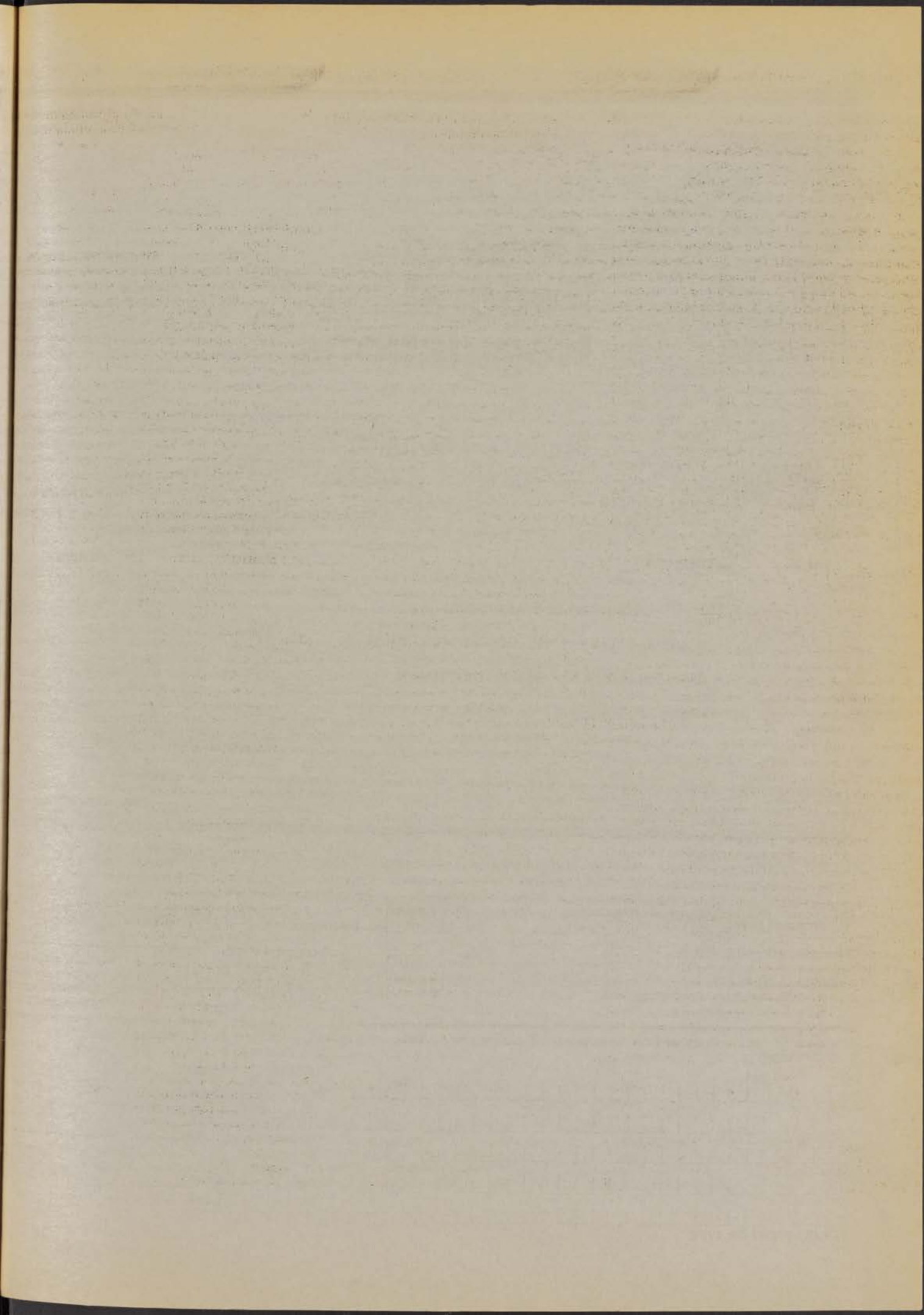
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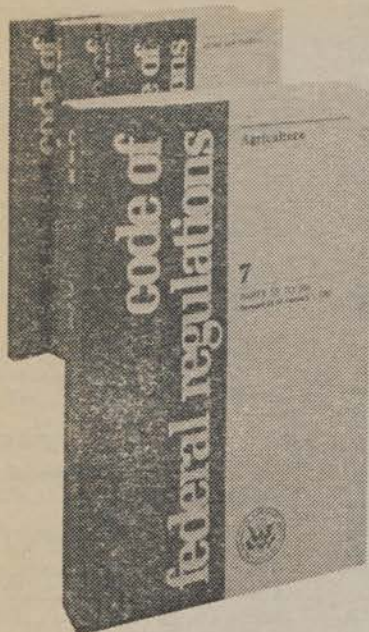
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